

THE WHITE HOUSE
WASHINGTON

DATE: March 19, 1993

TO: HOWARD PASTER
BRUCE LINDSEY

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

THE WHITE HOUSE
WASHINGTON

Dear Charlie:

Thank you for your letter recommending Mr. Mario Baeza for the position of Executive Vice President of the Inter-American Development Bank and for the chairmanship of a new bi-partisan Presidential Commission to review United States' policy toward the Caribbean nations.

As you are well aware, I am currently reviewing candidates for positions at the Inter-American Development Bank, and I will certainly keep your support of Mr. Baeza in mind. In reference to the new commission, I have asked the National Security Council to study the prospects of creating such a commission.

Once again, thank you for your letter. I look forward to working with you on other issues of importance.

With best wishes,

Sincerely,

Bill

The Honorable Charles B. Rangel
House of Representatives
Washington, D.C. 20515

*Can we get
this by the
Cuban Comm.*

CHARLES B. RANGEL15TH CONGRESSIONAL DISTRICT
NEW YORK

DEPUTY WHIP

COMMITTEE:

WAYS AND MEANS

CHAIRMAN, SUBCOMMITTEE ON
SELECT REVENUE MEASURES

SUBCOMMITTEE ON OVERSIGHT

CHAIRMAN, SELECT COMMITTEE ON
NARCOTICS ABUSE AND CONTROL

Congress of the United States
House of Representatives
Washington, DC 20515-3215

March 3, 1992

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PLEASE RESPOND TO
OFFICE CHOICES

Hon. William Jefferson Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton:

I am writing in connection with your pending nomination of the next Assistant Secretary of State for Inter-American Affairs. As you know, the entire Congressional Black Caucus has come out strongly in support of Mr. Mario Baeza's nomination. He is an excellent choice and would provide the strong and dynamic leadership which that post so badly needs. I believe your judgment was absolutely correct in the initial decision to nominate him for the post.

Of course, I will support the nomination of Alexander Watson, announced this week. Mr. Watson is a distinguished diplomat with whom I look forward to working on some of the important challenges facing our nation in this hemisphere.

I understand from Mr. Baeza that he had been urged to consider other positions in this Administration so as to put an end to the controversial debate over his nomination. He has indicated that he would consider favorably an offer to serve as the Executive Vice President of the Inter-American Development Bank, inasmuch as he would be able to continue to pursue his abiding interest and expertise in Latin America at a policy level.

Mr. Baeza has made clear to me that he views the position as an attractive compromise that would allow him to serve both the Administration and the Democratic Party. However, Mr. President, I feel strongly that some attention must be paid to addressing the concerns and disappointment of the thousands of individuals who supported Mr. Baeza for the Assistant Secretary's post and who may view his rejection by the Administration as pandering to the most conservative wing of the Cuban-American community.

Hon. William Jefferson Clinton
March 3, 1993
Page 2

Even before the announcement of Mr. Watson's nomination, many of Mr. Baeza's supporters had already written or called my office to register their concern that the delay in nominating him signalled that the Administration had allowed a small but well-organized single-issue group to veto your selection of Mr. Baeza. His hoped-for nomination also became a rallying point to many Cuban-Americans in Miami who, by supporting him, dared for the first time to oppose the Cuban-American National Foundation.

Mr. President, for these reasons, and so as to avoid the perception of having rejected Mr. Baeza out of political expediency, I urge you to do more than simply find him another job.

In addition to nominating him to the post of Executive Vice President of the Inter-American Development Bank, I would urge you to consider a suggestion that Mr. Baeza has made to me. It may help to resolve this matter on a win-win basis for the Administration, for Mr. Baeza and for the American people. The suggestion is that you also appoint him chairman of a new bi-partisan blue ribbon Presidential Commission to study, assess and make concrete recommendations concerning U.S. policy towards the Caribbean, including Cuba.

Mr. Baeza believes the Commission could be modeled after the highly successful New York State Task Force on Life and Law, formed by Governor Cuomo, and on which Mr. Baeza serves. The Commission would provide important insights into the Cuba issue, that, perhaps, have not been surfaced rigorously before. Moreover, the Commission would have the effect of moving the Cuba issue from the camps of the special interest groups to a neutral arena, where an inclusive and diverse group of persons of unassailable integrity, credentials and independence could take a rigorous look at our policy and, among them, develop a consensus.

In order to avoid an impact on the budget, Mr. Baeza has assured me that monies can be raised from private sources to support the staff and other activities of the Commission.

Mr. President, I believe the creation of such a Commission would be an astute and enlightened act. Your support would signal not only your independence of the special interests who have attempted to control this process but demonstrate your confidence in the abilities of a brilliant lawyer and role model for the Black and Hispanic communities.

Hon. William Jefferson Clinton
March 3, 1993
Page 3

Thank you for your consideration of this matter, and I look forward to hearing from you soon.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles B. Rangel", is written over a printed name and title. The signature is fluid and cursive, with a large initial "C".

CHARLES B. RANGEL
Member of Congress

CBR/em

CC: Hon. Bruce Lindsey
Hon. Warren Christopher

THE WHITE HOUSE
WASHINGTON

DATE: 3/19

NOTE FOR:

Rahm; Bob Rubin

The President has reviewed the attached, and it is forwarded to you for your:

Information

☒

Action

☐

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

THE WHITE HOUSE
WASHINGTON

March 17, 1993

Mr. Archibald Cox, Jr.
President and Chief Executive Officer
The First Boston Corporation
Park Avenue Plaza
New York, New York 10055

Dear Archie:

Thank you for taking the time to share your thoughts on revitalizing the American economy.

For too many years, the deficit has soared while investment in our people, their jobs, and our future declined. The economic package I proposed to Congress is rooted in the principle that we must reverse this trend.

In formulating my economic package, I worked hard to address many of the subjects you raised in your letter. Specifically, I spent a lot of time looking for solutions to what you accurately call the "jobless prosperity" of the present recovery, considering the importance of redirecting the priorities of federal government spending to greater investment in our future, and, of course, addressing health care reform and its role in the creation of future jobs.

I appreciate your input, and I have forwarded a copy of your letter to the National Economic Council. I hope I can count on your support as we move America forward together.

Sincerely,

Bill

John Little was great
Please keep in contact

ce Rahm

Boston Letter

Keep in touch
William on this
B.



FIRST BOSTON

The First Boston Corporation
Park Avenue Plaza
New York NY 10055
Tel: 212 909-3727
Fax: 212 318-1103

Archibald Cox, Jr.
President and 
Chief Executive Officer

January 27th, 1993

The President
The White House
Washington, DC 20500

Dear Mr. President:

Congratulations on taking office and on your inspiring Inaugural Address.

5/11
As an investment banker, I am in daily contact with leaders of major industrial, commercial, and financial enterprises, and from this perspective I would like to share with you an assessment of the current situation and implications for putting America back on an upward path.

The Present Situation

The American economy has entered a period of what one might call "jobless prosperity". Business has definitely turned up, which is confirmed in indicators such as the GDP, corporate profits, retail sales, industrial production, purchasing managers' reports and the like. But full-time payroll employment opportunities lag curiously and discordantly behind. A large accumulated gap between the economy's potential to produce goods and services and its actual performance implies that growth can proceed for quite a few years without fear of the emergence of new inflation outrages. Business strategies aim at cost, (and particularly labor cost), reduction rather than price increases. This also means that your administration has the luxury to plan policies of longer-term reform rather than getting bogged down in a stop-go pattern of short-run cyclical stimulus which would soon founder on the shoals of the economy's structural inadequacies.

Fiscal Priorities and Budget Deficits

Much, too much, is made of the fact that budget outlays exceed receipts. As a banker, I know that prosperity is not made of a strict adherence to never spending more than is in the till. On the contrary, prosperity comes when enterprises have the confidence and courage to spend more than they happen to have on hand at the moment. A banker's test is not whether spending is financed from current receipts or borrowing, but whether the spending is productive or not.

In this respect, a rising and disproportionate share of federal spending supports the older generation; no matter how noble the motive, this spending is not apt to generate the productivity increases to raise the standard of living of the working generation or our children. This is the crux of our public angst about the budget deficit. As your Inaugural words put it, the country needs to redirect our public spending priorities "for our tomorrow's, not our yesterdays". At the very least, this means ending the current pattern where Social Security and other old age benefits rise faster than the wages of working men and women. Putting Social Security and other old age benefits into the income tax base, or means-testing these programs directly, would even more decisively redress the balance. Resources released in this fashion can then be directed to more productive investments in education and the infrastructure. Refocusing medical priorities -- both health care and research support -- toward conditions that affect children and prime age working people would also raise the contribution of public spending to the productivity growth track of the overall economy.

Health Care and the Workplace

Health care reform is surely critical to bringing back under control public finances at the federal and state government levels. It also plays a key role in today's jobless prosperity. The focus of business leadership on controlling headcount stems from many sources, but the focus is elevated to the level of fixation by health care. To hire a worker nowadays is not simply to judge that her efforts will return her wage; it is also to make an unhedgeable gamble on a contingent liability of unknown magnitude on her health and fertility status. Many firms are naturally seeking to escape this risk by investing in labor saving technologies: a personal computer doesn't get sick the way a person might.

Introducing greater health care price discipline and cost control through managed competition or other techniques would obviously help tone up the labor markets. Severing the link between employment status and health care coverage (at least for catastrophic illnesses or pregnancies) would go even further to rehabilitate job prospects. Even without any further improvement in business conditions, firms would be much more eager to hire workers if they didn't have to fear the burden of potentially catastrophic health care bills.

Bankruptcy, Anti-Trust, and Other Industrial Issues

Health care reform is only the most glaring example of a microeconomic policy topic with widespread macroeconomic ramifications. Other examples abound. Current bankruptcy practices, especially Chapter 11, create a circumstance in some industries where the weaker firm is given a favored position, thereby sapping the vitality of more prudent and potentially more profitable competitors. The latter then are forced to curtail hiring and investing in order to defend their own market shares and short-run survival. This is Darwinian natural selection turned on its head. As your Inaugural

The President
January 26th, 1993
Page 3

words suggested, we really should turn our attention to creating opportunities for those who succeed to expand on the fruits of their business success while telling more of those whose business endeavors have failed that they cannot responsibly get something for nothing from the bankruptcy courts. Some of our anti-trust doctrines, product liability and other policies could also benefit from fresh thinking in the light of ever more intense global economic competition. The goal in each instance should be to give firms enough security in their existing franchise as to encourage them to take an expansive (rather than the current defensive) attitude toward employment, investment, and R&D programs.

In a related vein, public policies that make labor markets more rigid and load extra burdens onto the employment relationship are likely under current circumstances to spook business into even more frenzied efforts to substitute capital for labor in production technologies so as to create greater security for their profitability.

International Trade

The lesson of our international trade performance in recent decades is sobering: our merchandise trade deficit tends to shrink markedly only when domestic weakness holds down our imports, while our trade deficit balloons, as in 1992, whenever domestic spending revives. This pattern turns up the volume of the siren song of protectionism, but protectionism would only rob us of the gains from trade and the incentives to keep up with best world practice. A more constructive approach would include revitalizing the G-7 process. Stronger growth in other industrial countries would boost the market for our exports and thus take some of the sting out of our propensity to import. Your Administration should also emphatically encourage market liberalizing reforms in the emerging countries of the world. The benefits would go far beyond the expansion of America's export opportunities. The Federal Reserve needs to be alerted to the risk that a premature rise of the dollar on foreign exchange markets would pose both to US trade performance and to stability among our major trading partners.

Mr. President, like every American, I wish your Administration every success. Please feel free to call on me and the resources of First Boston in developing the policies that will launch our country into the 21st century, our posterity's century.

Respectfully yours,



AC:crm

JP copy

THE WHITE HOUSE
WASHINGTON

March 19, 1993

MEMORANDUM FOR ~~MAN~~ LEON PANETTA
BOB DAMUS
HOWARD PASTER

FROM: JOHN PODESTA *John*
SUBJECT: The Attached

I thought you would be interested in the attached. I think Mike raises some decent points. We probably need to get away from signing every bill 8 minutes after it arrives at the Executive Clerk's door. I know that your the victims not the perpetrators of that system, but let's work together to fix it.

cc: George Stephanopoulos
Ricki Seidman

you're

Robert W. Kastenmeier
Chairman

Judge S. Jay Plager
Vice Chairman

Michael J. Remington
Director



03 MAR 17 P3:55
**NATIONAL COMMISSION ON
JUDICIAL DISCIPLINE AND REMOVAL**

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John C. Harrison, Esq.
Senator Howell Heflin
Senator Arlen Specter
Professor Frank M. Tuerkheimer

MEMORANDUM

TO: JOHN PODESTA
ASSISTANT TO THE PRESIDENT AND
STAFF SECRETARY

FROM: MICHAEL J. REMINGTON *MR*

RE: THE FAMILY AND MEDICAL LEAVE ACT AND OTHER
RECENT ENACTMENTS

DATE: MARCH 16, 1993

You requested my thoughts in writing about the drafting of several recent congressional enactments. I have selected two enrolled bills: S.J. Res. 1 (Secretary Bentsen's pay reduction act) and H.R. 1 (the Family and Medical Leave Act of 1993).

My comments do not address the merits of the two proposals which I consider to be quite positive. Both bills do suffer from drafting irregularities that should have been cured during the drafting process in the Congress either through internal review by the appropriate committees or through receipt of the views of the executive branch.

S.J. Res. 1 - The bill contains four problematic provisions regarding judicial review.

First, the bill provides in paragraph (2) that "it shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection." This provision conflicts with 28 U.S.C. section 1657 which specifies that "[n]otwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined...." The direct conflict between congressional enactments should, of course, be reconciled in favor of the most recent enactment. But, in 1984 Congress eliminated approximately one hundred similar priorities. So, who wins?

Second, the bill mandates in paragraph (2) that the district court act as a three judge court pursuant to 28 U.S.C. section 2284. Although the rationale for a three judge court seems fairly clear - that is, distrust of a single judge -- this provision flies in

the face of a congressional decision made in 1976 to abolish three judge courts except in election apportionment cases.

Third, in subparagraphs (3)(A) and (3)(B), the bill confers mandatory jurisdiction on the United States Supreme Court to accept jurisdiction of an appeal, advance the appeal on the docket, and expedite the appeal. In light of 28 U.S.C. section 1253 (direct appeals from decisions of three judge courts to the U.S. Supreme Court), the rationale for a redundancy is unclear. It should also be noted that Congress eliminated most of the Supreme Court's mandatory jurisdiction in 1988, stating that the Court could be trusted to decide which cases merited full review. Although subparagraph (3)(B) requires the Supreme Court to take the case, it does not and, in any event, could not require the Court to decide it on the merits.

Fourth, subparagraph (3)(B) provides that a notice of appeal shall be taken to the Supreme Court within twenty days of judgment. Rule 18 of the Supreme Court Rules states that an appeal from a U.S. district court shall be taken in thirty days. Subparagraph (3)(b) obviously controls but at what cost and why?

H.R. 1 - The bill has at least one significant drafting problem. Section 107 confers litigation authority on the Secretary of Labor and not the Attorney General, as is customary. Section 107 conflicts with decades of consistent Administration positions that there be a single litigation voice within the executive branch.

* * * * *

I know that these drafting concerns pale in comparison to the larger policy concerns. But the burden on the new Administration is more than policy victories; it is nothing short of passing the wisest and best drafted laws that can be achieved. Drafting errors, even minor ones, often have unintended consequences that arise at the most unexpected times. This is especially true in a litigious society. Here are some possible unintended consequences. The Supreme Court mandatorily reviews an appeal about the constitutionality of Secretary Bentsen's salary but does not decide the case on the substantive merits, either summarily affirming or reversing. What is the precedential value of the decision? As relates to family leave issues, the Departments of Labor and Justice disagree on litigation decision-making and the press picks up on the disagreement. Who speaks for the Administration?

I do not know answers to the following questions which I raise in order to stimulate your thinking. Why didn't OMB -- in its coordination role -- identify the litigation authority issue as being important to the executive branch? Is the President using his 10 day signing period to draft a good signing statement and to extract promises of amendatory changes to cure drafting defects?

If you have any questions, feel free to give me a call.

S.J. Res. 1

One Hundred Third Congress of the United States of America

AT THE FIRST SESSION

*Began and held at the City of Washington on Tuesday,
the fifth day of January, one thousand nine hundred and ninety-three*

Joint Resolution

To ensure that the compensation and other emoluments attached to the office of Secretary of the Treasury are those which were in effect on January 1, 1989

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the compensation and other emoluments attached to the office of Secretary of the Treasury shall be those in effect January 1, 1989, notwithstanding any increase in such compensation or emoluments after that date under—

- (1) the Ethics Reform Act of 1989 (Public Law 101-194) or any other provision of law amended by that Act; or
- (2) any other provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 1989, and ending at noon of January 3, 1995.

(b)(1) Any person aggrieved by an action of the Secretary of the Treasury may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

(2) Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

(3)(A) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of the Treasury under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

S.J. Res. 1-2

(B) The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken pursuant to subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

(c) This joint resolution shall become effective at 12:00 p.m., January 20, 1993.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

H. R. 1

One Hundred Third Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the fifth day of January, one thousand nine hundred and ninety-three*

An Act

To grant family and temporary medical leave under certain circumstances.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

- Sec. 101. Definitions.
- Sec. 102. Leave requirement.
- Sec. 103. Certification.
- Sec. 104. Employment and benefits protection.
- Sec. 105. Prohibited acts.
- Sec. 106. Investigative authority.
- Sec. 107. Enforcement.
- Sec. 108. Special rules concerning employees of local educational agencies.
- Sec. 109. Notice.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

- Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

- Sec. 301. Establishment.
- Sec. 302. Duties.
- Sec. 303. Membership.
- Sec. 304. Compensation.
- Sec. 305. Powers.
- Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Effect on other laws.
- Sec. 402. Effect on existing employment benefits.
- Sec. 403. Encouragement of more generous leave policies.
- Sec. 404. Regulations.
- Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

- Sec. 501. Leave for certain Senate employees.
- Sec. 502. Leave for certain House employees.

TITLE VI—SENSE OF CONGRESS

- Sec. 601. Sense of Congress.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

H. R. 1—10

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

H. R. 1-11

(2) **RIGHT OF ACTION.**—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) **FEES AND COSTS.**—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) **LIMITATIONS.**—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1).

unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(b) **ACTION BY THE SECRETARY.**—

(1) **ADMINISTRATIVE ACTION.**—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) **CIVIL ACTION.**—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(3) **SUMS RECOVERED.**—Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) **LIMITATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) **WILLFUL VIOLATION.**—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) **COMMENCEMENT.**—In determining when an action is commenced by the Secretary under this section for the purposes

H. R. 1-12

of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 105, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(e) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

litigation
authority
X

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary or secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1).

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.

(c) INTERMITTENT LEAVE OR LEAVE ON A REDUCED SCHEDULE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

THE WHITE HOUSE
WASHINGTON

DATE: 3/19

NOTE FOR:

Howard Pastern

The President has reviewed the attached, and it is forwarded to you
for your:

Information ☐

Action ☐

memoirs



congrats.

John

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

per own discussion

Memorandum for ~~the~~ President
 From: Howard Paster
 Subject: House calls on stimulus/investment FY 93 supplemental
 Date: March 17, 1993

It would be helpful if you could call four of five of the House Democrats whose names follow to urge them:

- ✓ 1) Support the requested rule to ensure you get a straight vote on the stimulus/investment package.
- ✓ 2) Oppose a Republican motion to recommit the bill with instructions to cut and/or offset the spending by eliminating other programs.
- 3) Support final passage.

You will recall ~~with~~ this is a \$16 billion supplemental for everything from unemployment insurance to summer Head Start, from community development block grants to immunization, from highway improvements to summer jobs. In this jobless recovery we can ill afford not to make these investment spending, to create jobs and to jump start the economy.

Here are undecided votes, from which you should call four or five:

- ✓ Gary Condit
- ✓ Cal Dooley OK on 1, 2, 3
- ✓ Jimmy Hayes OK on 1, 2 ? on 3
- ✓ Jill Long OK on 1, 2, 3 - X on Budget
- ✓ Sonny Montgomery OK 1, 2 ? on 2, 3
- Owen Pickett
- ✓ Roy Rowland @ - wants to keep; Union.
- Ike Skelton
- John Tanner
- Billy Tauzin

VOTES DUE THURSDAY

Rowland
 @ on Stim - out of spending
 is still moving

Montgomery
 - OK on Budget
 - Stimulus?
 - Don't know

Hayes

- Support of Mainstream Forum
- Worried about L. Webb Ch - some specific endorsement.
- If Senate passes, to want House voting yes -
- will call Webb in am

Long

- ~~Big~~ Big Vote Budget / Stim / Health.
- Think take in Budget too much.
- OK on Stimulus; call will be yes
- Stim, Budget, Health.

Dooley

- OK on Budget
- If stimulus
- OK on Budget, on Health - is support.
- good call - Ad. for am - need
- Outreach Program, Per,
- will send am

THE WHITE HOUSE
WASHINGTON

DATE: 3/18

TO: *Bruce Lindsey*

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

cc. Howard Passer

United States Senate
Office of the Majority Leader
Washington, DC 20510-7010

March 17, 1993

93 MAR 18 P8:33

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

Dear Mr. President:

I am writing to recommend Danny Lee McDonald, a Democrat, for reappointment to the Federal Election Commission for the term beginning May 1, 1993, and ending April 30, 1999. Commissioner McDonald first was appointed to the FEC in 1981 and has served with distinction for 12 years.

In 1981 as well as 1987, the Senate Democratic leadership supported Commissioner McDonald's appointment. In seeking reappointment, Commissioner McDonald again has the support of the Senate Democratic leadership, as well as the delegation from his home state of Oklahoma.

Commission McDonald is a former local election official from Oklahoma who served in that capacity for nearly seven years. During that time he was appointed to the National Clearinghouse Advisory Panel on Elections, which is a branch of the Federal Election Commission. The panel was made up of 22 state and local election officials from around the country. His background and his experience make him uniquely qualified for this position.

Mr. President, I recommend Commissioner McDonald's reappointment to the Federal Election Commission based on his experience, commitment and integrity, as well as his impeccable credentials as a Democrat. I will appreciate your consideration of this request.

Sincerely,



George J. Mitchell

THE WHITE HOUSE
WASHINGTON

DATE: 3/19

NOTE FOR:

Bruce Lindsey

The President has reviewed the attached, and it is forwarded to you
for your:

Information



Action



Bruce

This just came
back to me

TJLW

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

THE WHITE HOUSE
WASHINGTON

March 5, 1993

MR. PRESIDENT:

I thought you should see this. Judge Arnold is complaining about the short shrift the Judiciary is getting in the budget process from OMB. Leon wasn't around, but I spoke with John Angell. He and Leon are going to try to schedule a meeting with Judge Arnold for next week to go over his concerns. John wasn't holding out much hope of finding money for the Judiciary.

I'll keep you posted.

John Podesta

Leon says he took
can go - 4 days
won't forget to call
B

UNITED STATES COURT OF APPEALS

EIGHTH CIRCUIT

CHAMBERS OF

RICHARD S. ARNOLD

CHIEF JUDGE

P.O. BOX 429

LITTLE ROCK, ARKANSAS 72203

[By Fax (202) 395-3888]

February 19, 1993

The Hon. Leon Panetta
Director, Office of Management and Budget
Executive Office Building
Washington, D.C. 20503

Dear Mr. Director:

You will recall the visit that Ralph Mecham and I had with you about the budget of the Judicial Branch for FY 1994, as well as our supplemental budget request for FY 1993. We were much encouraged by the visit.

A serious matter has arisen, however, with respect to which we ask your immediate attention. You will recall that one of the agreements we made during our meeting was that OMB would transmit to the Congress, without change or comment, the Judiciary's budget request for FY 1994. This has been the invariable practice since the enactment of the Budget Act of 1920, with the exception of one year, 1989, when the OMB proposed a reduction of 200 million dollars. This proposal was immediately rescinded by Mr. Darman, who told us that the same mistake would never be made again. During his tenure, it was not.

We have now learned that a draft, apparently in printed form, of the President's budget contains a proposal that the Judiciary's request be scaled back by 579 million dollars, to the level of some assumed "baseline." As this is inconsistent with the agreement that we made in your office, and with the assurances that you so graciously gave us, we assume that someone in your organization has made a mistake, not knowing of our conversation.

I tried to call your office yesterday to discuss the matter, but all of the telephone circuits were busy. I am therefore resorting to this method of communication. We would ask that you take prompt action to correct the mistake. This sort of thing occurs from time to time in large organizations, and I am certain that what has happened is wholly without your knowledge.

Let me thank you again for the courtesy that you extended to Mr. Mecham and me, and ask you to let us have an early response.

Respectfully yours,

Richard S. Arnold

Richard S. Arnold

RSA/bk

UNITED STATES COURT OF APPEALS

EIGHTH CIRCUIT

CHAMBERS OF
RICHARD S. ARNOLD

CHIEF JUDGE

P.O. BOX 429

LITTLE ROCK, ARKANSAS 72203

December 31, 1992

Mr. Thomas F. McLarty, III
Chairman and Chief Executive Officer
Arkansas Louisiana Gas Company
400 East Capitol
Little Rock, Arkansas 72202

Dear Mack:

This is to follow up on our recent correspondence about the budget of the Judicial Branch.

I have written Leon Panetta, with whom I have had a brief acquaintance in the past. A copy of my letter to him is enclosed. I hope to hear back from him, but realize that he is swamped with mail and with fiscal problems of much greater size than those of the Judiciary.

Still, for payments to appointed counsel in criminal cases and jurors in civil cases to cease would be a very serious matter, affecting the interests of all citizens.

If I don't hear from Chairman Panetta pretty soon, I may impose on you by writing to ask if you could get Ralph Mecham, Director of the Administrative Office of the United States Courts, and me an appointment to see him.

Please don't bother to acknowledge this letter. You have a lot more important irons in the fire.

Sincerely yours,

Richard

Richard S. Arnold

RSA/bk

P.S. I visited with Peter Edelman and Bernie Nussbaum at dinner a few days ago. We were in law school together. I gave them some information about the courts' budget and asked for their help.

RSA

RSA

UNITED STATES COURT OF APPEALS

CHAMBERS OF

EIGHTH CIRCUIT

RICHARD S. ARNOLD

CHIEF JUDGE

P.O. BOX 429

LITTLE ROCK, ARKANSAS 72203

December 21, 1992

The Honorable Leon Panetta
Chairman, Committee on the Budget
House of Representatives
339 Cannon House Office Building
Washington, D.C. 20515-0516

Dear Mr. Chairman:

First of all, please accept my congratulations on the announcement of your selection to be Director of the Office of Management and Budget. This choice gives us an additional reason (if any were needed) for confidence in the incoming Administration.

You may recall that Ralph Mecham, Director of the Administrative Office of United States Courts, and I visited with you a couple of years ago about the Judiciary's budget request. We asked you to consider including in the report of the House Budget Committee language favorable to full funding of our request. You gave us an attentive hearing and graciously agreed to the language we wanted.

The Judiciary now comes to you again in your new capacity. (I am still Chairman of the Budget Committee of the Judicial Conference of the United States.) We have two basic wishes: that our budget request for fiscal year 1994 be transmitted unchanged to the Congress, and that our supplemental request for FY 1993 be given an emergency designation for purposes of the Budget Enforcement Act.

The first request, as you know better than we, is simply for a continuation of routine practice. Ever since the Budget Act of 1920, the Judiciary's budget request has been transmitted to OMB (or its predecessor agency) and then simply passed on without change to the Congress. As far as I know, this practice has been followed without variation, except in 1989, when President Reagan's outgoing OMB Director took it upon himself to recommend a 200 million dollar reduction in our request. Mr. Mecham and I visited promptly with Mr. Darman, and this action was overruled. Since that time, our relations with OMB have been good, and our requests have been routinely transmitted. We ask only that this practice be continued. (We have no reason to suppose that it might not be, but simply wanted to get our position on the record for you.)

The second request is more substantive. It relates to our supplemental for FY 1993, which will be in the range of 90 million dollars. The largest part of it, some 71 million dollars, has to do with payment of lawyers' fees (at the rate fixed by statute) to counsel appointed to defend indigents in criminal cases in the federal courts. The money Congress gave us for this purpose will run out in March or April. Interruption of these appointments would create a very serious interference with the administration of criminal justice. There is good recent precedent for our position that an emergency designation would be appropriate. At the end of September 1992, Congress passed, and the President signed, a bill that included some 31 million dollars for payments to appointed counsel. This provision of the bill carried an express statutory designation as emergency legislation for Budget Act purposes. By signing the bill, the President necessarily indicated his concurrence.

We are hopeful that similar action will be taken next year by you and the new President. I have written both to Governor Clinton and to Mack McLarty about this problem, and now direct this letter to you as the official who will, in all likelihood, make the actual decision.

Mr. Mecham and I would like to visit with you at some convenient time about the matter, in order to answer any questions that you or your staff might have.

Thank you for considering this letter. We are anxious to continue our good relations with the Executive Branch. I was greatly heartened the other night when I had the good fortune to hear your statement at the news conference at which the President-Elect announced his intention to appoint you. Your words were both impressive and affecting. It was especially good for us to hear your reference to "equal justice" as one of the primary aims of government.

Respectfully yours,

Richard S. Arnold

Richard S. Arnold

RSA/bf

cc: Mr. L. Ralph Mecham

UNITED STATES COURT OF APPEALS

EIGHTH CIRCUIT

CHAMBERS OF

RICHARD S. ARNOLD

UNITED STATES CIRCUIT JUDGE

P. O. BOX 428

LITTLE ROCK, ARKANSAS 72203

November 9, 1992

Mr. Mack McLarty
Chairman and Chief Executive Officer
Arkansas Louisiana Gas Company
400 East Capitol Avenue
Little Rock, Arkansas 72202

Dear Mack:

For the last five years I have been Chairman of the Budget Committee of the Judicial Conference of the United States. It's my job to present to Congress each year the budget request for the federal courts. I have also helped establish a good working relationship with the Executive Branch, represented by the Office of Management and Budget.

I was calling you to seek your advice on how best to set up a meeting with the Governor (if he has time) to brief him about the federal courts' budget. It's a relatively small item, but a vital one.

Enclosed is a copy of a letter I have written to the Governor on the subject.

I would like to visit with the Governor, with you, or with the new director of OMB, whenever he or she is designated, if time can be worked out for the purpose. If you could let me know the best way for me to proceed, I would be most grateful.

Sincerely yours,

Richard

Richard S. Arnold

RSA/bf
Encls.

UNITED STATES COURT OF APPEALS

EIGHTH CIRCUIT

CHAMBERS OF
RICHARD S. ARNOLD
CHIEF JUDGE
P.O. BOX 429

LITTLE ROCK, ARKANSAS 72203

November 9, 1992

The Hon. Bill Clinton
Governor's Mansion
1800 Center Street
Little Rock, Arkansas 72206

Dear Governor:

Please accept my heartfelt congratulations on your election. The whole country places its hopes in you. I know we will not be disappointed.

This letter is about the budget of the federal courts. Since 1987, I have been Chairman of the Budget Committee of the Judicial Conference of the United States. It's my job to present to Congress the budget request for the entire system of federal courts, except for the Supreme Court, which handles its own budget, and two specialized courts. Each year I testify before the House and Senate Appropriations Committees. I have also helped establish a good working relationship with the Executive Branch, through the Office of Management and Budget.

Our budget is (relatively) small - for fiscal 1993, about \$2.3 billion. But we are an independent branch of government. Without strong and independent courts, there can be no federal government worthy of the name. We have no control over our workload. People file cases; we must decide them. The caseload goes up each year. Our budget goes up, too, but not proportionately, not enough to give us the staff and other resources we need to serve the public at an undiminished rate.

If you could find the time to let me talk with you briefly about the Judiciary's budget, I would be most grateful. Our budget situation this year (fiscal 1993) is more serious than ever before in my tenure. In particular, unless we get a supplemental appropriation, we will probably run out of money to pay appointed lawyers in criminal cases in the middle of March, and money to pay jurors will be used up in August. We will be sending to Congress a request for a supplemental appropriation to cover these and other needs. We urgently need an emergency designation for this request from OMB. Without such a designation, our chance to obtain this money is small. The amount involved in our request will be on the order of \$90 million.

I will spare you any further details. We are anxious to maintain our relationships with the Executive Branch, which have usually been good in the past. Please let me know if I can come see you to discuss the courts' budget. I am well aware that you have many larger matters to attend to. If you would like me to write or visit with someone you designate, I will cheerfully do so.

Respectfully yours,

Richard

Richard S. Arnold

RSA/bf

UNITED STATES COURT OF APPEALS

CHAMBERS OF
RICHARD S. ARNOLD
CHIEF JUDGE
P.O. BOX 429

EIGHTH CIRCUIT

[By Fax]

LITTLE ROCK, ARKANSAS 72203

March 1, 1993

The President
The White House
Washington, D.C. 20500-2000

Dear Mr. President:

This is a plea for help from the Federal Judiciary.

In 1987, the Chief Justice appointed me Chairman of the Budget Committee of the Judicial Conference of the United States. I still serve in that capacity. My duties include helping to formulate the budget request of the Judicial Branch and presenting that request to Congress. They also include relationships with the Executive Branch in budget matters.

Unhappily, the Office of Management and Budget is interfering in quite a substantial way with the traditional balance in budget matters among the three branches of government. By statute, our budget, like that of Congress, is transmitted to OMB, but is to be included in your budget without change. "Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget . . . shall be submitted to the President . . . and included in the budget by the President without change." 31 U.S.C. § 1105(b). The law has contained this language, or something close to it, ever since the Budget Act of 1921. To my knowledge, this requirement has been scrupulously followed ever since, with only two exceptions.

The first occurred in 1989. President Reagan's outgoing OMB Director, acting in early January of that year, transmitted to Congress a budget for fiscal year 1990. This budget recommended a \$200 million dollar reduction for us. Ralph Mecham, Director of the Administrative Office of United States Courts, and I immediately began trying to see Richard Darman, President Bush's OMB Director, to get the situation corrected. We had some difficulty getting in to see Mr. Darman, but when we finally succeeded in obtaining an audience, he was completely reasonable. The recommended change in the Judiciary's budget, he said, was a mistake and would not be repeated. During Mr. Darman's tenure, it was not.

The second exception is occurring now. Mr. Mecham and I sought an appointment with Mr. Panetta earlier this year. We got the appointment and had a good visit with him. He was gracious and positive. We explained to him that we had only a few basic

requests. One of them was that past practice, enshrined in the law which I have quoted, be continued, that is, that our budget request be sent to the Congress by OMB without change or adverse comment. Mr. Panetta readily agreed, or, at any rate, we thought he did. The whole subject took only a couple of minutes. Another part of our discussion concerned our supplemental budget request. As you may recall from my letter to you of November 9, 1992, we're going to run out of money to pay appointed lawyers in criminal cases before too long. If a supplemental appropriation is not forthcoming, the administration of criminal justice in the federal courts will be very seriously impeded. We need an emergency designation, or some equivalent favorable action, in order to get this supplemental appropriation passed. And time is of the essence: we now estimate that our ability to pay panel attorneys will last only until sometime next month. We will also run out of money to pay jurors in civil cases, probably in May, absent this additional aid.

Back to the main subject: Mr. Mecham and I met with Mr. Panetta on February 8. Nine days later, on February 17, I learned that a draft of your budget, under consideration in OMB, recommended a "negative allowance" of \$579 million dollars for the Judiciary. ("Negative allowance," I take it, means "cut.") An OMB official informed an Assistant Director of the Administrative Office that this action was being taken "in full knowledge" of the meeting we had had with Mr. Panetta. I could not believe that Mr. Panetta would countenance such a thing, or that he knew of it. So, on February 19, I sent him a letter by fax calling his attention to the error that was being made and asking him to act promptly to correct it. On Monday, February 22, having heard nothing, I called Mr. Panetta's office. His assistant, who was very gracious, told me she would have him call me, I thought the next day.

Another week has passed, and I have heard nothing. The situation forces us to appeal to you and ask you to inquire into the matter. Perhaps Mr. Mecham and I were not specific enough. Perhaps we misunderstood Mr. Panetta. I know that he is an honorable man. In fact, while he was Chairman of the House Budget Committee, he met with us and was helpful to us. But the notion is abroad in Congress that our request is not fully included in your budget, and that impression, as a practical matter, can do the federal courts serious damage. The situation is complicated by one of the tables in the appendix to your very impressive document "A Vision of Change for America," released on February 17, 1993. This document must have been, at the very least, in draft on the day Mr. Mecham and I met with Mr. Panetta. Yet, table 8, appearing at page 141 of "Vision," shows a figure of \$2.6 billion dollars for 1994 for the Judicial Branch. This figure is more than \$500 million dollars below our actual budget request. We know that this table is having an effect. House Budget Committee staff have informed us that the \$2.6 billion dollar figure, rather than our

actual budget request, which is more than \$3.1 billion dollars, is being used in formulating the first concurrent budget resolution for FY 1994. This resolution, in turn, influences the allocations made by the House and Senate Appropriations Committees to each of their Subcommittees. These allocations place a ceiling on domestic discretionary spending, the category in which most of the courts' budget falls.

I am writing to you only because we have not heard from Mr. Panetta. We understand that your budget will be formally transmitted to the Congress on April 5. There is time for a correction to be made. In fact, a caveat at the beginning of "Vision," page iii, explains that you are being required, contrary to past practice, to construct and submit to Congress a complete budget in very little time, and that as a result, errors may be made. Such errors, it is said, will be corrected. We cannot help but believe that because of the unreasonably short time your Administration has been given, just such a mistake has been made with respect to the federal courts.

We are confident that you will take prompt and corrective action. We impose upon your time and attention only with reluctance. The amount of money involved is relatively small, in the context of the entire federal budget. The matter, however, concerns an independent and coordinate branch of government, without which no government worthy of the name would exist. We would like any reference to a "negative allowance" for the Judiciary to be withdrawn, and for table 8 to be changed to reflect our actual budget request, without change. We are willing to meet with anyone you designate, including Mr. Panetta, to discuss the matter, if you think that would be useful.

One more thought: We are not under the illusion that Congress won't cut our budget. We know that the Judicial Branch will have to bear a fair share of the country's fiscal burden. But we would like the cuts to come at the end of the process, after Congress has fully heard our case, instead of being effectively made beforehand by the Executive Branch.

Please accept my assurances of the respect in which the Judicial Branch holds you and your office. We will be grateful for any consideration you can give us.

Respectfully yours,

Richard S. Arnold

Richard S. Arnold

RSA/bf
Encls.

P.S. By way of background, and in an attempt to be helpful, I enclose copies of some previous correspondence.

R

RSA

cc: The Hon. Leon Panetta
Director, Office of Management and Budget
Executive Office Building
Washington, D.C. 20503

THE PRESIDENT HAS SEEN

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

CHAMBERS OF
RICHARD S. ARNOLD
CHIEF JUDGE

P. O. BOX 429
LITTLE ROCK, ARKANSAS 72203

[By Fax]

March 1, 1993

Bruce Lindsey, Esq.
Senior Adviser to the President
The White House
Washington, D.C. 20500

Dear Bruce:

Help!

We have had some previous discussion about the budgetary position of the Judicial Branch. I enclose a letter sent to the President today by fax, together with attachments which give some of the background.

If you can help or give me some advice on what to do next, I would certainly be grateful.

Sincerely yours,

Richard

Richard S. Arnold

RSA/bf
Encls.

Posted for Pres per Bw

THE WHITE HOUSE
WASHINGTON

DATE: 3/5

TO:

Donsia Strong

FROM: JOHN D. PODESTA

Assistant to the President and
Staff Secretary

Give me credit for being
in the right barnyard.

Speaking of which,
we better clean that
letter with the
President's Science Advisor

D.S.
Sorry
This
never
was
mailed
JVP

Date: _____
Time: _____

THE WHITE HOUSE

FAX COVER SHEET

93/02/8 19:35

TO: John Podesta

Phone: ()

FAX: () 2215

FROM: Donsia Strong

Phone: (202) 456-2330

Santerin not Sanguin!

Pages following cover sheet = _____

...totally dedicated to restoration" of the environment, O'Leary said in an interview with reporters and editors at The Washington Post. "Livermore has been the proposal and it's one that intrigues me greatly."

Several officials said the proposal remains in a preliminary stage, but would reflect President Clinton's desire to see the Energy Department move from the front lines of the Cold War to new civilian responsibilities, including repairing the environmental damage created around the country by work on nuclear weapons over the past 50 years.

"Our business for the long term is

technology transfer" and promotion of conservation and efficiency, O'Leary said. As an indication of the reduced military importance of nuclear weapons, she recalled that during her initial discussion with Clinton about the Energy Department last December, he hardly mentioned the nuclear weapons work that was at the core of the department's responsibilities during the Reagan and Bush years.

Officials at Livermore as well as at two sister labs in the nuclear weapons business—Sandia and Los Alamos, both in New Mexico—have known for a while that the glory days of weapons invention were finished.

President George Bush cancelled production of new U.S. warheads last year, and Congress passed legislation allowing just 15 more underground nuclear tests for weapons design before a complete cessation in 1996.

O'Leary's predecessor, James D. Watkins, had strongly opposed the legislation, saying in a January report that it would "undermine the long-term quality of the nation's nuclear deterrent." But O'Leary said yesterday the legislation was appropriate "as it exists" and the administration will not try to change it.

"This needs to be a collaborative effort, it needs the thinking of the lab

directors," O'Leary said of the proposal to alter Livermore's main mission. She said the idea would be discussed soon with Livermore Director John A. Nuckolls and his colleagues, and decided before September.

O'Leary also said that in any event, an effort would be made to retain the "core competence" of nuclear weapons scientists so their work can be revived "in case the world becomes unsettled again."

Clinton, in a letter to Congress on Feb. 12, said he would spell out later this spring a schedule for resuming talks with Russia aimed at reaching accord on a comprehensive nuclear testing ban. Also expected are de-

O'Leary indicated her management style would differ from Watkins, whose blunt and tailored management direct- icated many employees. She said her aim will be to "make things clear," then let staff members press their views.

O'Leary said she agreed with Watkins's assessment that the department had rated an "F" on its performance in 1989 and only a "C-plus" in 1990. She said she was a bureaucratic culture at the department had largely resisted his administrative reform, adding: "I don't think it has even begun to peel that onion."

Staff writer Thomas W. Lipson contributed to this report.

Clinton's Science Adviser Defends His Views on Animal Rights

Associated Press

President Clinton's science adviser is a firm believer in animal rights, refuses to eat veal and believes some researchers have needlessly abused laboratory animals.

John Gibbons's views have aroused concern among some scientists, especially after a report that his wife belonged to People for the Ethical Treatment of Animals (PETA), one of the more controversial animal-rights groups.

Gibbons said yesterday that his wife, Mary Ann, was once a member of PETA, but that she let her membership lapse three or four years ago.

"They were getting more and more 'fringy,' so she didn't renew her subscription," he said in an interview with the Associated Press.

An animal-rights bumper sticker that Gibbons said he thinks came from PETA adorned the family station wagon in the mid-1980s, Gibbons said.

PETA regularly releases information about laboratory break-ins by the Animal Liberation Front, although PETA says it has no connection with the ALF. Amy Bertsch, a spokeswoman for PETA, said that PETA neither encourages nor condemns the illegal actions.

Gibbons said he and his wife eat meat, but he doesn't eat veal. "You know how veal is raised? In the dark, milk-fed, force-fed, in a cage, never sees the ground. And I don't want to eat an animal that's been given that kind of life."

Gibbons dismissed scientists' concerns about his views, however, saying he is a strong supporter of

the use of animals in research when necessary.

"My gosh, yes, you've got to have whole animals for a lot of very critical experiments and evaluations," Gibbons said. "But that doesn't mean you abuse them either or are callous in the way you use them."

"I want to see animal use on the basis of necessity—defensible necessity," he said.

The National Association for Biomedical Research, which was formed to promote scientists' views of laboratory animal research, said its members expressed concern about Gibbons's views after his appointment.

"I'd like to be sure that he has all the information about what modern laboratory animal medicine is all about," said Barbara Rich, executive vice president of the association.

"My accusation to that community at my confirmation hearing was they ought to be taking better care of the abuses that historically have occurred," Gibbons said. "I've seen video tapes. I know. Abuses have occurred."

Rich said Gibbons had produced a balanced report on animal research while he was director of the congressional Office of Technology Assessment, and she said she did not believe he held unreasonable views on animal rights.

Gibbons said both he and his wife are interested in protection of primates, and his wife belongs to a group called the International Primate Protection League. The league monitors illegal primate trade and has filed suits to enforce laboratory animal protections.



JOHN GIBBONS, Clinton's science adviser, said his wife had belonged to PETA.

THE WHITE HOUSE
WASHINGTON

DATE: 3/18

TO: Ricki Seidman

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

I think the President
is quite concerned
about our immigration
policy + enforcement.
You might pass that
along to Janet Reno
Jotw

Temporary Visas Used to Stay in U.S. Indefinitely

■ **Borders:** Recent terrorist incidents point up looseness in immigration laws. Congress may make changes.

By DAVID G. SAVAGE
TIMES STAFF WRITER

WASHINGTON—The World Trade Center bombing and the recent shooting outside the CIA point up a surprising laxity in U.S. immigration laws that permit foreigners to enter this country on a temporary visa and to stay indefinitely—with virtually no chance of getting caught.

Officials of both the Immigration and Naturalization Service and the State Department readily admit that they have no idea how many people fail to depart as promised. Even if they knew that a foreigner had overstayed his visa, they say that they have no way to find him.

American embassy officials interview foreigners, ask why they want to come to the United States and issue visas to those who are likely to leave as promised. But those records are destroyed after one year, department officials say.

The INS issues an entry card to visa-holders once they arrive here, but its agents do not keep information that would permit them to track down a missing foreigner.

"You are talking about a huge number of people" who come here with a temporary visa, said INS spokesman Duke Austin. "There is no system to track them. We wouldn't even know where to start looking for them."

In 1991, Austin said, 293 million people came this country on some sort of entry permit.

Until now, no one paid much attention to this virtually unregulated system of legal immigration.

But the recent highly publicized crimes at the Trade Center and the CIA have prompted some talk of change on Capitol Hill.

"Our borders are much too porous," Rep. Charles E. Schumer (D-N.Y.) said Sunday on CBS' "Face the Nation." "We want to keep them open, but we also have

Please see ALIENS, A5

ALIENS

Continued from A1
to be much more careful."

The prime suspect in the World Trade Center bombing, Mohammed A. Salameh, entered the United States in 1988 with a visitors visa issued at the American Embassy in Amman, Jordan. The 20-year-old Palestinian who has a Jordanian passport said he wanted to come here for one year to study, but he never returned home. That fact became clear to U.S. officials only after he was arrested in connection with the bombing.

Last month, officials had a similarly unpleasant surprise when investigating the murders of two CIA employees as they sat in their cars outside the agency's headquarters in a Virginia suburb outside Washington.

They learned that the prime suspect in that case, Mir Aimal Kansi, had entered this country in December, 1990, with a visa issued at the American Embassy in Karachi, Pakistan. He said he was coming here on business and would leave within one year.

But Kansi failed to depart and instead applied for asylum, a slow and cumbersome process that takes years, even to set up a hearing.

With his asylum application and a work permit, Kansi was able to get a Virginia driver's license and to purchase an AK-47 assault rifle that allegedly was used in the Jan. 25 murders.

Once he became a suspect in the case, Kansi simply fled back to Pakistan.

Kansi's case shows how the asylum laws can be abused.

"Right now, if you get on an airplane [to the United States] and claim asylum . . . when you arrive at Kennedy Airport in New York, they will say to you, 'OK, we'll give you a hearing on whether you deserve asylum. Show up in a year.' And two-thirds of the people never show up," said Schumer, who chairs the House subcommittee on criminal justice.

Immigration lawyers say it is well understood that foreigners who can obtain a temporary visa have no trouble staying here indefinitely.

"There is no automation to their records [at the INS], so there are literally thousands coming all the time who just stay," said David Carliner, a prominent immigration lawyer in Washington. "It's not always easy to get a visa, but once you get here, they don't have any

way of tracking you."

Foreigners arriving with a visa are asked to supply an address, he said. But that information—which is not checked—may be nothing more than the name of a hotel.

When leaving, they are supposed to drop off a departure card, but that is not required. Based on this information, INS officials try to estimate departure rates for various countries.

This data is used to set criteria for admitting foreigners. For example, it is harder to get a visa from Haiti or Pakistan, whose citizens are deemed less likely to return home, than from Germany or Britain, immigration lawyers say.

Embassy officials also are more likely to give a visa to a 40-year-old with a house, a family and a job in his native country than to a young, unmarried person.

The State Department has been asked why Salameh and Kansi, two young, unattached men from poor nations, were given visas to come here, but its officials have been unable to supply the answers.

"The visa applications are destroyed after a year, so we don't have any information on them," said Joseph Snyder, a State Department spokesman. "We certainly don't keep track of people once they get here."

"We have a great deal of trust in our system," said Austin of the INS, so some foreigners can abuse the system. "But that's the price of an open society," he said.

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whether to do

BC

No New Bomb Arrests Imminent, Officials Say

■ **Probe: Authorities are still uncertain if the Trade Center explosion was the work of international terrorists. An expert is to be lowered into the blast site today.**

By JOHN J. GOLDMAN
and ROBERT L. JACKSON
TIMES STAFF WRITERS

NEW YORK—Three days after the capture of Mohammed A. Salameh, the prime suspect in the World Trade Center bombing, no new arrests are considered imminent, and authorities have not determined whether the explosion was an act of terrorism directed from abroad, the FBI official heading the investigation said Sunday.

"I don't see any more arrests at this time," said James M. Fox, an assistant FBI director who heads the New York field office. But Fox also noted that last week's dramatic breakthrough "came without warning."

Another source familiar with the investigation said the probe has hit "a plateau" but that more progress is expected when officials finish processing the huge amount of technical information now being collected and interview a number of Salameh's associates, whom they are still seeking.

Many leads are being pursued overseas, he said, apparently by the FBI legal attaches who are based in the embassies of many foreign countries.

The source said authorities are optimistic that they can determine by the end of the week whether the bombing was a foreign-directed terrorist attack or the work of local militants.

Fox and other top FBI officials huddled Sunday with representatives of the federal Bureau of Alcohol, Tobacco and Firearms, the New York City Police Department and other agencies. When they emerged, their comments focused more on the questions that remain unanswered since a powerful bomb, allegedly loaded into a van that had been rented by Salameh, exploded in the trade center's underground parking garage, killing five people and injuring about 1,000.

Fox said in an interview that the reason for the attack is still unknown. With Salameh's arrest last Thursday, "there's been a lot of speculation," he said. "But I'd have to say we are not closer to a motive. I can't say we are moving in one direction or the other."

He declined to say whether firm links have been found between a second man taken into custody, Ibrahim A. Elgabrowni, and the bombing. Other sources indicated that there is no hard evidence against him yet. Elgabrowni, an associate of Salameh and a relative of the accused assassin of Rabbi Meir Kahane, a right-wing Jewish leader, was arrested for allegedly interfering with a search conducted in the bombing case.

The origin of the bomb plot and those involved is a matter of particular sensitivity to the U.S. foreign policy community, and the Clinton Administration and foreign governments are waiting with anticipation for definitive information.

"I think it is too early to reach conclusions or speculate," Samuel (Sandy) Berger, deputy national security adviser, said in a Cable News Network interview. "I think the first and urgent responsibility here is to get the facts. Once we get the

facts, once we know what the address of this incident is, I can assure you that we will take action."

Investigators hope they can move into higher gear after a bomb expert is lowered today to the actual site of the explosion, located deep inside a five-story-tall, rubble-strewn crater beneath the remains of the Trade Center's garage.

Bomb chemists hope to compare samples taken at the scene of the explosion with bomb-making ingredients seized from a storage shed rented by Salameh and from an apartment in Jersey City, N.J., once occupied by an associate of the suspect. If the explosives are the same, the still-circumstantial case against Salameh would be strengthened immensely.

Perhaps even more significant, they hope to find enough fragments of the bomb's detonator or timing device to provide a connection to previous bombings or to terrorist groups.

The theory that some conspirators, including the van's driver, could have perished in the gigantic explosion has not been discounted. "That's one of the secrets we will discover when we get into the pit," Fox said.

Investigators are hopeful of finding clues that could trigger more searches for evidence. "I don't think all search warrants have been returned, but we are 90% complete," Fox said. "There could be more

searches in the next few days."

Since Salameh's arrest, members of a police and interagency anti-terrorist task force have compiled a list of Salameh's roommates and associates, some of whom have not been seen since the bombing.

Federal agents are seeking to question a man authorities describe as a "Jordanian associate" of Salameh who was with him on Feb. 23 when he rented the van believed to have been used in the bombing.

Fox acknowledged that agents so far have been unable to disprove Salameh's claim that the van was stolen from him the night before the blast.

On Sunday, FBI agents returned for about 30 minutes to a Jersey City apartment where they had found bomb-making parts.

A man who said he was the owner of the small second-floor apartment was busy repainting it and told a Times reporter that the agents confiscated the trash left by the previous occupants, who had moved a week ago. He said two men had lived in the unit since early January but that he did not know their names. He said he rented the apartment for \$500 a month plus a \$500 deposit after they responded to a newspaper ad. He and that he did not ask the men for background information or to sign a lease because they did not speak English.

"When they left, they told me they were

canceled the lease because they had found other jobs in Brooklyn," he said.

The man, who declined to give his name, said he had the impression from FBI agents that they were looking for more than just the two men. He said the former tenants did not match the description of the suspects seized so far in connection with the bombing.

Residents of the building where Salameh is believed to have lived in Jersey City just before his arrest said that the suspect and a group of friends on several occasions carried a man with both legs missing from the knees down into the apartment. The man, they said, appeared to be in his 40s and was a previous occupant of the apartment. The residents said they did not know the man's name.

Muslim leaders complained Sunday that "illiterate Americans" have been making abusive phone calls to mosques, Muslim organizations and the homes of Muslims across the country since the arrest of Salameh, a Muslim born in the Israeli-occupied West Bank. A third-story window of the Jersey City mosque where Salameh worshiped was broken.

"It's worse than during the Gulf War," said M.T. Mehdi, president of the New York-based American-Arab Relations Committee and the secretary-general of the National Council on Islamic Affairs. He said some Americans are angrier at Muslims now because the violence is taking place close to home.

Reports Sunday from the Mideast began to sketch a somewhat fuller portrait of Salameh.

In an interview in Zarqa, Jordan, with the Associated Press, Salameh's mother, Aysa, said that her son traveled to the United States on Feb. 17, 1988, to pursue a master's degree in business administration.

"He had big dreams. He wanted to fulfill his dreams in America. He is not a terrorist," she said. She said she is sure "of America's fair justice, and that my son will come out of this nightmare soon."

Salameh's father, Amin, is a retired officer in the Jordanian army. Salameh's mother said her son loved Western movies, wrestling and soccer when growing up.

A brother, Ahmed, said Salameh was not a Muslim fundamentalist but became engrossed in Islamic teachings in his final years in high school and began praying and reading the Koran with friends. Authorities in Jordan said that Salameh and his family do not have criminal records.

In New York, Salameh's defense lawyer said the 25-year-old man did some construction work. Neighbors in Jersey City said he hung around with taxi and truck drivers.

Meanwhile, Mayor David N. Dinkins said he was "concerned" that the New York-New Jersey Port Authority, which operates the World Trade Center, had rejected security recommendations made six years ago by an anti-terrorist task force it had set up. The task force cited concerns about the vulnerability of the center's garage, a source said. Its advice to close the garage to non-tenants was not implemented.

Dinkins said that Stanley Brezenoff, the current executive director of the Port Authority, only learned of the security survey after the bomb exploded.

The mayor added that anti-terrorist experts were examining the vulnerability of New York's bridges, tunnels and major buildings.

said.

Times staff writers Ronald J. Ostrow, Gebe Martinez, Elizabeth Shogren and William C. Rempel contributed to this story.

ROUTING SLIP

FROM: Mack McLarty
Chief of Staff

DATE: 3/17

TO:

The President _____
Rahm Emanuel _____
Marcia Hale _____
Alexis Herman _____
Nancy Hernreich _____
Anthony Lake _____
Bruce Lindsey _____
Regina Montoya _____
Bernie Nussbaum _____
Howard Paster _____

Vice President Gore _____
John Podesta ✓ * _____
Carol Rasco _____
Bob Rubin _____
Eli Segal _____
George Stephanopoulos _____
Christine Varney _____
David Watkins _____
Maggie Williams _____
OTHER _____

FOR YOUR:

Action _____

Information _____

See me _____

* For the President

00789855

THE WHITE HOUSE
WASHINGTON

March 17, 1993

~~For~~
MAR 18 93 09:32
Res. p.d.
I [unclear] Apr. 15

MEMORANDUM FOR MACK MCLARTY

FROM: Alexis ~~Harman~~

RE: Correspondence from Mayor Jackson

Recently at the Mayors Press Conference at which the President attended, the following was hand-delivered to me for transmitting to the President.

Letter from President of Morehouse College Dr. Leroy Keith delivered by Mayor Maynard Jackson of Atlanta.

Attachment

AMH:RGM



MOREHOUSE

C O L L E G E

Office of the President

February 8, 1993

The Honorable William Jefferson Clinton
President of the United States of America
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Clinton:

On behalf of the trustees, faculty, staff, alumni and students of Morehouse College, I extend warm greetings to you and the Clinton family. I take this opportunity to formally congratulate you on your assumption of the presidency; when last we spoke, during the Renaissance Weekend, the inaugural festivities had not yet begun. Please know that this college community stands in support of your presidency and wishes you Godspeed.

Mr. President, this correspondence serves as a formal reiteration of my verbal invitation to you to deliver the Commencement Convocation speech at Morehouse College on Sunday, May 16, 1993. I know that you have indicated your willingness to return to the College; indeed, we would be most honored by your return and participation in our Commencement exercises.

To assist you in determining the feasibility of your participation in this auspicious occasion at the College, I submit the following general information: our Commencement exercises are scheduled to be held on the College campus green at 5:00 PM, when we will confer degrees upon approximately 500 Morehouse graduates in the presence of about 8,000 parents, friends of the College and local and national dignitaries. Should these general logistics seem feasible and acceptable, we look forward to cooperating with your staff to effectively facilitate the important matters of transportation, accommodations and security.

We thank you for your time and consideration of this request, and look forward to a Commencement Convocation made incomparably dignified by the presence of, and message from, the President of the United States.

The Honorable William Jefferson Clinton / 2

For additional information, your staff may reach me at my office by telephone at 404/215-2645 or by facsimile at 404/659-6536. In my absence, Mrs. Jennifer Joseph, vice president for policy and planning, may be of assistance. During evening hours, please telephone my home at 404/352-3130.

With sincere respect and warm regards, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Leroy Keith", with a stylized flourish at the end.

Leroy Keith
President

LK/lj

THE WHITE HOUSE
WASHINGTON

March 18, 1993

MR. PRESIDENT:

Attached is a decision memo that we just received from Tony Lake and Bob Rubin asking that you approve of certain technical modifications to the retaliatory measures you approved last month concerning the EC Utilities Directive.

The NEC, NSC and USTR want these modifications published in the Federal Register tomorrow since that is the last business day before the retaliatory measures go into effect.

The modifications have been sent to the Federal Register and will be published tomorrow assuming you approve before 5 pm today -- otherwise they will be pulled from the Friday Register.

(The retaliatory measures will take effect March 22 (Monday) since it is now clear that the EC will not waive their discriminatory practices before that date.)

We recommend that you approve the modifications.


Todd Stern

THE WHITE HOUSE

WASHINGTON

ACTION

March 18, 1993

93 MAR 18 P1:47

MEMORANDUM FOR THE PRESIDENT

FROM:

ANTHONY LAKE

ROBERT RUBIN

SUBJECT:

EC Utilities Directive Retaliation

Purpose

To seek your approval for certain technical modifications of the proposed sanctions against the European Community's Utilities Directive, which are scheduled to take effect on March 22.

Background

As you recall, you authorized USTR on February 1, absent an agreement with the EC, to retaliate against the EC's Utilities Directive, which discriminates against U.S. suppliers of telecommunications and heavy electrical equipment. Discussion between the U.S. and EC have failed to reach an agreement. (Last week, Ambassador Kantor cancelled a scheduled negotiation session with EC officials because he felt certain it would not lead to a solution.) The retaliation is scheduled to go into effect March 22.

The attached memorandum from Kantor (Tab A) asks you to approve certain modifications of the statutory sanctions to mirror the discrimination imposed by the EC Utilities Directive, to protect U.S. business interests, and to simplify application of the sanctions.

Kantor does not believe the EC will counter-retaliate for these sanctions. He is meeting with his EC counterpart, Sir Leon Brittan on March 29 to discuss this issue, among others. We will keep you apprised of developments.

RECOMMENDATION:

That the technical modifications of the retaliation be approved.

Approve _____

Disapprove _____

Attachment

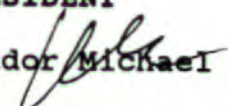
Tab A Memo from Kantor

cc: Vice President
Chief of Staff

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

MAR 16 1993

MEMORANDUM FOR THE PRESIDENT

FROM: Ambassador  Kantor
SUBJECT: Implementation of Title VII Sanctions
Against the European Community

ISSUE AND RECOMMENDATION

That you approve certain technical modifications to the Title VII sanctions against the European Community, which are scheduled to take effect on March 22.

DISCUSSION

On February 1, you authorized me to publish a Federal Register notice prohibiting, effective March 22, U.S. government purchases of goods and services of the European Community not covered by the GATT Government Procurement Code and not related to U.S. national security interests. Pursuant to Title VII of the Omnibus Trade and Competitiveness Act of 1988, the EC was identified as a country that discriminates against U.S. businesses in government procurement by Presidential Determination No. 92-22 of April 22, 1992 as a result of procurement practices contained in the EC Utilities Directive. The EC has made it clear that it will not waive the discriminatory practices before March 22 and therefore the sanctions will become effective as scheduled.

Title VII gives the President the discretion to tailor the sanctions so they are "equivalent, in their effect, to the discrimination" against U.S. goods or services if imposing the statutory sanctions would harm the public interest of the U.S. All interested agencies have recommended that the statutory sanctions be modified to mirror the discrimination imposed by the EC Utilities Directive, to protect U.S. business interests here and in Europe and to simplify application of the sanctions. The proposed modifications are:

Rule of Origin for EC Goods: We propose to follow the rule of origin contained in the discriminatory provisions of the EC Utilities Directive. Goods would be prohibited if the value of the components manufactured in the EC comprise more than 50% of the total price of the good.

Rule of Origin for EC Services: Although the statute sets forth a rule based on ownership or control, we recommend a rule based on the place where the services are performed. Application of the statutory rule would prohibit procuring services from U.S.-based subsidiaries of EC companies. This would cost US jobs and also give the EC an excuse to retaliate against U.S.-owned, EC-based subsidiaries, which are currently treated as EC companies for all purposes.

Spare Parts and Subcontracts: The sanctions will not affect contracts for spare parts in cases where there are no non-EC alternatives nor will it prohibit subcontracts since the agencies most likely to be affected by the sanctions felt that such prohibitions would unduly complicate agency procurement.

Spain, Greece, Portugal: The prohibitions will not apply to procurements from Greece or Spain as those countries are not currently required to abide by the EC Utilities Directive and we have received assurances from their governments that they do not discriminate against U.S. bidders in telecommunications or heavy electrical equipment procurements. Since Portugal is also not subject to the Directive, we would propose to exempt Portugal if we receive similar government confirmation.

In conformance with your previous decision that sanctions take effect on March 22, I plan to announce these technical modifications on March 22.

The sanctions are a modest response to the discrimination faced by U.S. businesses. They will apply to U.S. procurements worth about \$40 billion, matching the value of EC procurements covered by the EC Utilities Directive. In 1990, however, EC firms actually won less than \$25 million of those U.S. procurements, while lost sales by U.S. firms as a result of EC discrimination has been estimated to exceed \$100 million.

DECISION

Agree _____ Discuss Further _____

[Billing Code 3190-01-M]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**NOTICE OF IMPLEMENTATION OF SANCTIONS WITH RESPECT TO THE
EUROPEAN COMMUNITY PURSUANT TO TITLE VII OF THE OMNIBUS TRADE AND
COMPETITIVENESS ACT OF 1988**

AGENCY: Office of the United States Trade Representative

ACTION: Prohibition of awards of contracts by federal agencies for products and services from some of the Member States of the European Community as of March 22, 1993.

SUMMARY: On February 4, 1993, the United States Trade Representative announced that the Administration intended to prohibit awards of certain contracts by federal agencies for products and services from some or all of the EC's twelve member states, effective March 22, 1993. The sanctions result from the identification by the President on April 22, 1992 of the EC under Title VII of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2515, as amended), as a country that discriminated against U.S. businesses in government procurement. In light of the failure of the EC to remove the discriminatory practices, the sanctions became effective March 22, 1993.

Details of the specific sanctions are contained in "Supplementary Information" and in a Federal Register notice of today's date published by the Federal Acquisition Regulatory Council.

FOR FURTHER INFORMATION CONTACT: Mark Linscott, Office of GATT Affairs (202-395-3063) or Laura B. Sherman, Office of the General Counsel (202-395-3150), Office of the United States Trade Representative, 600 Seventeenth Street, NW, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

On April 22, 1992, pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2515(g)(1)(A)), the President identified the EC as a country that maintains in government procurement, a significant and persistent pattern or practice of discrimination against U.S. products or services that results in identifiable harm to U.S. businesses. In accordance with the provisions of Title VII, the President modified imposition of sanctions so that they would take effect by January 1993, subject to EC implementation of certain discriminatory practices. (57 Fed. Reg. 15217)

On February 4, the United States Trade Representative announced that the President had determined that the sanctions would take effect March 22, 1993. (58 Fed. Reg. 7163) Since that time, the U.S. and the EC have engaged in intensive negotiations, which have failed to produce an agreement that would eliminate EC

discrimination. Consequently, the sanctions became effective on March 22, 1993 and apply to U.S. issuances of solicitations published on or after that date.

The President authorized the modification of the sanctions set forth in 41 U.S.C. 10b-1. As modified, purchases by U.S. government agencies covered under the GATT Government Procurement Code and purchases in support of U.S. national security interests, including all procurement by the Department of Defense, are excluded from this action, as are purchases of essential spare, repair and replacement parts not otherwise available from non-EC sources and contracts for goods or services procured and used outside the U.S. and its territories. Only prime contracts are affected.

Except as noted above, the following contracts purchased by Federal agencies are prohibited: 1) service contracts, including construction services; 2) all purchases of goods by Federal agencies not listed in Annex 1; and 3) all contracts for the purchase of goods valued at less than \$176,000. The prohibition applies to the following member states of the EC: Belgium, Denmark, Federal Republic of Germany, France, Italy, Ireland, Luxembourg, Netherlands and the United Kingdom. It does not apply to the EC member states: Greece, Spain and Portugal.

An EC product is (a) an unmanufactured end product mined or produced in the EC or (b) a manufactured product, if the cost of its components mined, produced or manufactured in the EC is 50% or more of the cost of all of its components. An EC service is any service, including construction services, performed in the EC.

Pursuant to Title VII, waiver of the sanctions by the head of a Federal agency is authorized where the waiver is necessary in (1) the public interest, (2) to avoid the restriction of competition in a manner which would limit the procurement in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or suppliers; or (3) because there would be or are an insufficient number of potential or actual bidders to assure procurement of services, articles, materials or supplies of requisite quality at competitive prices. (41 U.S.C. 10b-1(c))

Further details of the specific sanctions are contained in a Federal Register notice of today's date published by the Federal Acquisition Regulatory Council. These prohibitions will remain in effect until terminated by the President.

Frederick L. Montgomery
Chairman, Trade Policy Staff Committee

ANNEX A

Department of Agriculture
Department of Commerce
Department of Education
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior (other than the Bureau of Reclamation)
Department of Justice
Department of Labor
Department of State
United States Agency for International Development
Department of the Treasury
General Services Administration (other than Federal Supply Groups
 51 and 52 and Federal Supply Class 7340)
National Aeronautics and Space Administration
Department of Veterans Affairs
Environmental Protection Agency
United States Information Agency
National Science Foundation
Panama Canal Commission
Executive Office of the President
Farm Credit Administration
National Credit Union Administration
Merit Systems Protection Board
ACTION

United States Arms Control and Disarmament Agency
Office of Thrift Supervision
Federal Housing Finance Board
National Labor Relations Board
National Mediation Board
Railroad Retirement Board
American Battle Monuments Commission
Federal Communications Commission
Federal Trade Commission
Interstate Commerce Commission
Securities and Exchange Commission
Office of Personnel Management
United States International Trade Commission
Export-Import Bank of the United States
Federal Mediation and Conciliation Service
Selective Service System
Smithsonian Institution
Federal Deposit Insurance Corporation
Consumer Product Safety Commission
Equal Employment Opportunity Commission
Federal Maritime Commission
National Transportation Safety Board
Nuclear Regulatory Commission
Overseas Private Investment Corporation
Administrative Conference of the United States
Board for International Broadcasting

Commission on Civil Rights

Commodity Futures Trading Commission

Peace Corps

Maritime Administration of the Department of Transportation

THE WHITE HOUSE

WASHINGTON

March 18, 1993

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK
FROM: ANTHONY LAKE 
SUBJECT: Report to Congress on Iraq

Purpose

You report to Congress on Iraq's failure to comply with United Nations Security Council resolutions as required under the Authorization for Use of Military Force Against Iraq Resolution (H.J. Res. 77, Public Law 102-1).

Background

Public Law 102-1 requires that you report to Congress every sixty days on the status of Iraq's compliance with the UN Security Council resolutions. The attached report was prepared by the Department of State and reviews Iraqi actions since President Bush provided his final report on Iraq on January 19, 1993. Your report notes that Iraq continues to refuse to provide the full list of suppliers for its weapons of mass destruction, refuses to accept UNSCR 715 which mandates a long term monitoring regime for Iraq's WMD infrastructure, continues to harass UN weapons inspectors, continues to repress the Iraqi people and continues to reject UNSCRs 706 and 712 which would allow sale of Iraqi oil to buy food and medicine under UN controls. The report also restates U.S. support for the Iraq National Congress opposition movement.

RECOMMENDATION

That you sign the Report to Congress at Tab A. The report is due to Congress by no later than March 22, 1993.

Attachments

Tab A Report to Congress
Tab B Last report to Congress

cc: Vice President
Chief of Staff

008288

Dear Mr. President:

Consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1), and as part of my effort to keeping Congress fully informed, I am reporting on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council.

Under my Administration, the United States will continue to lead international efforts aimed at ensuring that the Iraqi regime does not threaten international peace and security and at ending the Iraqi Government's brutal repression of its people. To that end, we will maintain our insistence on full Iraqi compliance with U.N. Security Council Resolutions. We will work with the international community to ensure the integrity of the U.N. sanctions regime, which is the best means to promote Iraqi compliance.

In accordance with U.N. Security Council Resolution 687, the U.N. Special Commission on Iraq (UNSCOM) and the International Atomic Energy Agency (IAEA) have continued to investigate Iraq's weapons of mass destruction (WMD) programs and to verify the destruction of relevant facilities, equipment, and weapons. Destruction of chemical munitions at Al Muthanna has continued.

UNSCOM #48, a missile team, and UNSCOM #49/IAEA #17, a nuclear team, arrived in Iraq just a week after the cruise missile attack on the Al Zaafaraniyah nuclear-related facility. The nuclear team inspected the Al Zaafaraniyah site, confirmed that only buildings with technical functions had been hit, and verified the destruction of many highly sensitive machine tools. After initial resistance, Iraqi officials have permitted baseline inventories of the Ibn Al Haytham Research Center; this is an important but limited step in enabling UNSCOM to move toward comprehensive evaluation and long-term monitoring of Iraqi WMD capabilities. The inspections were successful in eliciting new details of Iraqi WMD programs and an admission from Iraqi officials that they attempted to deceive a previous UNSCOM team.

A missile team designated as UNSCOM #50 discovered a small discrepancy in the inventory of missile propellant at one site. During this inspection, the Iraqi side argued that UNSCOM should not be permitted to use Global Positioning System equipment to identify the precise locations of sites visited. Iraq alleges inaccurately that such readings were used by the U.S. military to target the Zaafaraniyah site. UNSCOM rejected this argument. On February 22, the team was redesignated as UNSCOM #51 and searched for possible SCUD sites west of Baghdad.

Iraqi harassment of inspectors and interference with UNSCOM and IAEA activities has resumed, after a lull immediately following the attack on Al Zaafaraniyah. Iraqi authorities also threatened to shoot down a helicopter performing support for a ground inspection that UNSCOM #51 was carrying out. In early February, an Iraqi, possibly an official "minder" for the inspectors, threw a rock through the window of an UNSCOM vehicle.

Iraq continues to refuse to provide the U.N. and IAEA with a comprehensive list of the suppliers for its WMD programs. Moreover, it refuses to accept UNSCR 715, which mandates the creation of a long-term monitoring regime for Iraq's WMD infrastructure. The international community must insist on such long-term monitoring.

The United Nations has continued its work to settle the Iraq-Kuwait border. The Iraq-Kuwait Boundary Demarcation Commission continues its work, without Iraqi participation. At its December meeting, the Commission agreed to begin to demarcate the off-shore section of the boundary "with the principal purpose ... being navigational access for both parties."

In response to continued Iraqi violations of the border and the demilitarized zone (DMZ), the U.N. Security Council adopted Resolution 806 on February 5. The Resolution clarified that the United Nations Iraq-Kuwait Observer Mission (UNIKOM) can take any necessary actions to prevent such violations and authorized a potential increase in UNIKOM forces from 250 to 3,600 troops. The U.N. is seeking to identify countries willing to contribute an armed battalion for this purpose.

Evidence continues to mount concerning the massive extent of the Iraqi Government's human rights violations, both before and after the Persian Gulf War. Max van der Stoep, Rapporteur of the U.N. Human Rights Commission, has produced compelling evidence of Iraqi atrocities against the civilian population in southern Iraq. We support the Rapporteur's proposal to place human rights monitors throughout Iraq.

Iraq's campaigns of repression against its own people underline the importance of international actions to protect Iraq's civilian populations. Acts of violence and terrorism continue at the behest of the government of Iraq in violation of UNSCRs 687 and 688. The "no-fly zones" over northern and southern Iraq seek to monitor Iraq's compliance with UNSCR 688. Since the no-fly zone was instituted in southern Iraq last year, Iraq's use of aircraft in aggression against its population in the region has stopped. The no-fly zone in the north has also prevented use of fixed or rotary wing aircraft against the local population there. Other acts of repression continue, however, underscoring the need for U.N. monitors.

The international community has continued its efforts, consistent with Security Council resolutions, to alleviate suffering in Iraq. The United States is working closely with the U.N. and other organizations to provide humanitarian relief to the people of northern Iraq, in the face of Iraqi Government efforts to disrupt this assistance. We support new U.N. efforts to mount a relief program for persons in Baghdad and the South but the U.N. must be able to prevent the Iraqi Government from diverting supplies.

The U.N. sanctions regime exempts medicine and requires only that the U.N. Sanctions Committee be notified of food shipments. In accordance with paragraph 20 of resolutions 687, the Committee received notices of 17 million tons of foodstuffs to be shipped to Iraq through January 1993. The Sanctions Committee also continues to consider and, when appropriate, approve requests to send to Iraq materials and supplies for essential civilian needs.

The Iraqi Government, in contrast, has for months maintained a full embargo against its northern provinces, in violation of UNSCR 688, and has acted to distribute humanitarian supplies only to its supporters and to the military. It has also refused to utilize the opportunity under Resolutions 706 and 712 to sell up to \$1.6 billion in oil, proceeds from which could be used by Iraq to purchase foodstuffs, medicines, materials, and supplies for essential civilian needs of its population; the distribution of these supplies would be monitored by the U.N. (These proceeds could also be used to finance essential U.N. activities concerning Iraq.) The Iraqi authorities bear full responsibility for any suffering in Iraq that results from their refusal to implement Resolutions 706 and 712.

The United States has recently transmitted to the U.N. a report on Iraqi violations of international humanitarian law committed during the Gulf War. This report provides the international community with a documented record of Iraqi crimes. We encourage others to transmit whatever information they have on Iraqi violations of international humanitarian law to the UN in accordance with UNSCR 674.

Since January 19, the U.N. Compensation Commission has continued to prepare for the processing of claims from individuals, corporations, other entities, governments, and international organizations that suffered direct loss or damage as a result of Iraq's unlawful invasion and occupation of Kuwait. The Commission has received about 400,000 claims to date. The next session of the Governing Council of the Commission is scheduled to be held in Geneva March 29-April 2, 1993, with another meeting in July 1993.

Iraq has not met its obligations concerning Kuwaitis and third-country nationals it detained during the war. The government of Kuwait has compiled over 600 files on missing individuals. Although Iraq has received this information through the International Committee of the Red Cross (ICRC), it has taken no substantive steps to comply with Security Council Resolution 687, which requires that Iraq cooperate fully with the ICRC. Regional organizations have also been engaged -- thus far to no avail -- in trying to obtain Iraqi compliance on the issue of detainees. We continue to work for Iraqi compliance and the release of all those detained in Iraq.

The United States and our allies continue to press the Government of Iraq to return all property and equipment removed from Kuwait by Iraq. Iraq continues to withhold necessary cooperation on these issues and to resist unqualified ICRC access to detention facilities in Iraq.

We will continue to seek to maintain Iraq's territorial integrity. A future government that represents all the people of Iraq and that is committed to the territorial integrity and unity of Iraq would be a stabilizing force in the Gulf region. In this regard, we are encouraged by recent efforts of the Iraq National Congress (INC) to develop broad-based, indigenous opposition to the Baghdad regime. A democratic and pluralistic government would be the best guarantor of the future of the Iraqi people.

My administration does not seek to use force, but we will not shrink from using force in self-defense or as authorized by U.N. Security Council Resolutions to compel Iraq's compliance with their terms. I am grateful for the support of the Congress for these efforts.

Sincerely,

The Honorable
Albert Gore
President of the Senate

THE WHITE HOUSE

WASHINGTON

January 19, 1993

Dear Mr. Speaker:

Consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and as part of my continuing effort to keep Congress fully informed, I am again reporting on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council.

Since my last report on November 16, 1992, Iraq has repeatedly ignored and violated its international obligations under U.N. Security Council Resolutions. Iraq's actions include the harassment of humanitarian relief operations in northern Iraq contrary to U.N. Security Council Resolution 688, violations of the Iraq-Kuwait demilitarized zone, interference with U.N. operations in violation of Security Council Resolution 687, repeated violations by Iraqi aircraft of the southern and northern no-fly zones, and threats by Iraq's air defense forces against Coalition aircraft enforcing the no-fly zones.

The southern no-fly zone and Operation Southern Watch were established in August 1992 to assist the monitoring of Iraq's compliance with Security Council Resolution 688. Since that time, Iraq has stopped aerial bombardments of its citizens in and around the southern marsh areas and ceased large-scale military operations south of the 32nd parallel. Operation Southern Watch cannot detect lower-level acts of oppression, however.

In December 1992, Iraqi aircraft on several occasions entered the southern no-fly zone and demonstrated hostile intent, including by firing a missile at a U.S. aircraft. On December 27, 1992, a U.S. aircraft shot down an Iraqi aircraft that entered the no-fly zone. Beginning in late December, Iraq moved surface-to-air missiles into the zone, threatening Coalition aircraft operating south of the 32nd parallel. On January 6, 1993, the United States and its Coalition partners issued an ultimatum to Iraq to disperse and render non-threatening its surface-to-air missiles deployed in the zone and to cease aircraft activities in the area. Iraq initially acceded to this demarche. The United States then announced that it would scrutinize Iraqi activity and that "[n]o further warning will be issued if Iraq violates the requirements of the January 6 demarche."

By January 11, 1993, it had become clear that Iraq had stopped complying with the requirements of the January 6 demarche and that missiles once again threaten Coalition aircraft. Accordingly, U.S. and Coalition aircraft attacked and destroyed surface-to-air missile sites and related facilities in southern Iraq on January 13. There were no losses to the aircraft taking part in the mission. In this connection, I note the statement of U.N. Secretary General Boutros-Ghali on January 14, 1993, that "the raid and the forces that carried out the raid, have received a mandate from the Security Council, according to Resolution 687, and the cause of the raid was the violation by Iraq of Resolution 687 concerning the cease-fire. So, as Secretary General of the United Nations, I can say this action was taken and conforms to the resolutions of the Security Council and conformed to the Charter of the United Nations." On January 18, 1993, Coalition aircraft again struck air defense sites and related infrastructure to ensure the safety of Coalition flight operations in the area. There were no losses to Coalition aircraft.

On January 7, 1993, the Iraqi Government refused permission for certain U.N. aircraft to land in Baghdad, thereby interfering with the missions of the U.N. Special Commission on Iraq (UNSCOM) and the U.N. Iraq-Kuwait Observer Mission (UNIKOM). On January 8, and again on January 11, 1993, the U.N. Security Council formally found this Iraqi action to "constitute an unacceptable and material breach of the relevant provisions of Resolution 687 (1991), which established the cease-fire and provided the conditions essential to the restoration of peace and security in the region." The Council also warned Iraq of the "serious consequences which would ensue from failure to comply with its obligations."

On January 13, 1993, we underscored our full support for the Council's statements. On January 15, 1993, UNSCOM found Iraq's refusal to guarantee the safety of flights constituted an abdication of Iraq's responsibilities to ensure the safety of UNSCOM personnel. On January 16, 1993, UNSCOM found that Iraq's decision to condition ensuring the safety of flights on entry of Iraqi airspace from Jordan to be an unacceptable attempt to restrict UNSCOM's freedom of movement. If accepted, such a condition would prevent the Special Commission from effectively carrying out its mission.

On January 17, 1993, at my direction, U.S. Tomahawk missiles destroyed the Zaafaraniyah nuclear fabrication facility near Baghdad. This facility was selected because of its role in Iraq's electromagnetic isotope separation (EMIS) program. The Coalition attack was designed to help achieve the goals of U.N. Security Council Resolutions 687, 707, and 715 requiring Iraq to accept the inspection and elimination of its weapons of mass destruction and ballistic missiles. Zaafaraniyah had been inspected a number of times, and some equipment used for the production of EMIS components for Iraq's nuclear weapons program

was removed. The facility nonetheless contained precision machine tools used to fabricate items for military and civilian customers and could again be used to support Iraq's nuclear weapons program.

In early January 1993, Iraq sent personnel into Kuwait and the demilitarized zone (DMZ) to seize military equipment and other valuable goods. These actions violated the DMZ, the recently demarcated Iraqi-Kuwait boundary, and agreements with the United Nations. On January 8, the U.N. Security Council declared that, "the presence of Iraqi military personnel in the demilitarized zone was a serious violation of Resolution 687." It also said that "the removal of the Iraqi property and assets from Kuwaiti territory should be undertaken only after prior clearance by UNIKOM and by the Kuwaiti authorities through UNIKOM."

On January 10, 1993, Coalition representatives notified the Iraqi Government that additional Iraqi intrusions into Kuwait and the DMZ would not be tolerated. On January 11, the Security Council condemned the Iraqi actions as "further material breaches of Resolution 687" and warned Iraq again of serious consequences that would flow from continued defiance. Nevertheless, each day from January 10 to 13, Iraq continued to send personnel to retrieve material in violation of the DMZ, the boundary, and its agreements with the United Nations. In these circumstances, I ordered the deployment of a task force to Kuwait to reemphasize our commitment to Kuwaiti independence and security.

Meanwhile, Operation Provide Comfort, the Coalition's effort to monitor compliance with U.N. Security Council Resolution 688 and to provide humanitarian relief in northern Iraq, discourages significant Iraqi military operations against the inhabitants there. On the other hand, the Iraqi Government has maintained an embargo of food, fuel, and medicine on northern Iraq. It has made every effort to frustrate U.N. humanitarian relief efforts by planting bombs on relief convoys, using violence against relief workers, and creating bureaucratic delays. We are determined to assist the humanitarian effort and have repeatedly warned Iraq to cease its harassment.

As in southern Iraq, Saddam Hussein has sought to interfere with the operations of Coalition aircraft in the north since early January. On January 17, 18, and 19, 1993, Coalition aircraft encountered hostile Iraqi activity and took limited defensive actions to suppress Iraqi air defenses. On January 17, 1993, Coalition aircraft shot down an Iraqi aircraft after it entered the no-fly zone.

We continue to support the efforts of the Iraq National Congress to develop a broad-based alternative to the Saddam regime. We encourage other governments to do the same. The Congress espouses a future Iraq based on the principles of political pluralism, territorial unity, and full compliance with all the U.N. Security Council resolutions.

Until Iraq's recent violations of its obligations, UNSCOM and the International Atomic Energy Agency (IAEA) continued to investigate Iraq's weapons of mass destruction programs and to verify the destruction of relevant facilities, equipment, and weapons. UNSCOM 45, the fourteenth ballistic missile team (October 16 to 29, 1992), with significant Russian cooperation, did not find evidence of a clandestine Iraqi SCUD force. Fuel and oxidizer samples were analyzed and tested negative for substances of interest.

Two nuclear inspections were carried out. UNSCOM 46/IAEA #15 (November 8 to 18, 1992) completed water sampling at 37 additional sites throughout Iraq. Analysis of more than 550 water and sediment samples is underway, although evidence of any major facility in Iraq that is producing fissionable fuel has not yet been found. The team also destroyed 100 tons of steel which Iraq declared had been procured for its centrifuge program. IAEA #16 was part of UNSCOM 47 (December 5 to 8, 1992). The team reinspected the former headquarters of the PC-3 project (where important documents had been seized) and carried out inspections at Tuwaitha and al Atheer.

The third combined chemical and biological weapons inspection, UNSCOM 47 (December 5 to 14, 1992), focused on question-and-answer sessions with Iraqi scientists to close gaps in Iraqi disclosures about its CBW programs and short-notice inspections to pressure Iraq to reveal more details about those programs.

Since my last report, the Chemical Destruction Group in residence at the Muthanna State Establishment destroyed the following items: 300 122mm rocket warheads; propellant for 750 122mm rockets; 82 122mm rocket motors; and 2830 liters nerve agent (GB/GF).

The Iraq-Kuwait Boundary Demarcation Commission continues its work, without Iraqi participation. The land boundary has been demarcated through the placement of boundary pillars in the ground. At its last meeting, the Boundary Commission agreed to begin the demarcation of the offshore boundary section.

Since my last report, the U.N. Compensation Commission has continued to prepare for the processing of claims from individuals, corporations, other entities, governments, and international organizations that suffered direct loss or damage as a result of Iraq's unlawful invasion and occupation of Kuwait. The next session of the Governing Council of the Commission is scheduled to be held in Geneva from March 29 to April 2, 1993, with another meeting in July 1993.

At its most recent session, December 14 to 18, 1992, the Governing Council took decisions on trade embargo losses,

interest, and a committee on administrative matters. The Council discussed the issues of priority of payments, costs, and attorney fees. The Executive Secretary reported that the Commission has now received about 380,000 claims and expects many times that number. He noted that the Commission hopes to be able to present to panels of Commissioners the first claims for fixed amounts for departure and personal injury by the middle of 1993 and the first claims for individuals' actual losses up to \$100,000 later in the year.

The U.S. Government is prepared to file its third set of 170 consolidated individual claims with the Commission, bringing the total of U.S. claims filed to 550. The Department of State is reviewing about 1,000 additional claims received from individuals and corporations. The next filing is scheduled for March.

In accordance with U.N. Security Council Resolution 687, the Sanctions Committee received notices of 13.5 million tons of foodstuffs to be shipped to Iraq through November 22, 1992. The Sanctions Committee also continues to consider and, when appropriate, approve requests to send to Iraq materials and supplies for essential civilian needs. Iraq has also refused to use the opportunity under U.N. Security Council Resolutions 706 and 712 to sell up to \$1.6 billion in oil, proceeds from which could be used to purchase foodstuffs, medicines, materials, and supplies for essential civilian needs, as well as to fund essential U.N. activities concerning Iraq. The Iraqi authorities bear full responsibility for any suffering in Iraq that results from their refusal to implement Resolutions 706 and 712.

Since my last report, important progress has been made in addressing U.N. financial difficulties in conducting a number of activities in Iraq as a result of Iraq's refusal to implement Resolutions 706 and 712. In December, Kuwait and Saudi Arabia made total voluntary contributions of \$50 million to the U.N. escrow account established under Resolution 778. Pursuant to Executive Order No. 12817, the United States has transferred a matching amount from certain frozen Iraqi oil proceeds, making a total of \$100 million transferred to the escrow account.

Of this total, \$21 million has been transferred to the U.N. Compensation Fund under the terms of Resolution 778; this should be sufficient to allow it to proceed with the acquisition of the computer system and staff needed to begin full-scale adjudication of claims against Iraq. In addition, \$30 million has been earmarked for UNSCOM, and most of the remainder will provide humanitarian relief in Iraq.

As I noted in my last report, we are prepared to transfer up to \$200 million in frozen Iraqi oil proceeds to the escrow account to match transfers by others, and we are actively encouraging others to do so. These funds will be repaid, with interest, from Iraqi oil revenues as soon as Iraqi oil exports resume.

Through the International Commission of the Red Cross (ICRC), the United States, Kuwait, and our allies continue to press the Government of Iraq to comply with its obligations to repatriate or account for some 800 detained Kuwaiti and third-country nationals. An emissary of the Arab League has also undertaken to elicit Iraqi cooperation on the issue of detainees. The United States and its allies continue to press the Government of Iraq to return to Kuwait all property and equipment removed from Kuwait by Iraq. Iraq continues to withhold necessary cooperation on these issues and to resist unqualified ICRC access to detention facilities in Iraq.

In this my last report under the joint resolution, let me again note how grateful I am for the support and cooperation Congress provided during my Administration toward achieving our mutual objectives in the Persian Gulf region.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Bush", written in a cursive style.

The Honorable Thomas S. Foley
Speaker of the
House of Representatives
Washington, D.C. 20515

007621

To The President



Democratic National Committee

93 MAR 16 P3:55

FAX TRANSMITTAL COVER SHEET

DATE: 16 March

TO: John Podesta - 453 ~~2155~~ 2883

SUBJECT: Perot's Latest

FROM: Simon Rosenberg + Kent Markus
Constituency Outreach / Political

If there are any problems receiving this transmission,
please call sender, (202) 863-7126

Ross Perot's Latest—A TV Show with a Ballot



March 20-26
89¢

**James Garner
Talks About
Maverick,
Rockford,
and the
'Barbarians'**

**Tracey
Gold's
Back and
Feeling
Fine**

SOAPS' SEXIEST STARS

**It's hotter
in the daytime.
Here's why.**



*The Bold
and the
Beautiful's
Hunter Tylo
(right) and
General
Hospital's
Antonio
Sabato Jr.*

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NBC TV & RADIO 8:00pm EST (7:00pm CST/8:00pm PST)

Your response allows the people of America to speak to Congress and the White House on these vital issues. Complete your ballot and mail it in to be tabulated.

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(Please darken box completely)

- | | YES | NO |
|---|--------------------------|--------------------------|
| 1. Do you believe that for every dollar of tax increase there should be \$2.00 in spending cuts with the savings earmarked for deficit and debt reduction? | ☐ | ☐ |
| 2. Should the President present an overall plan including spending cuts, spending increases, and tax increases and present the net result of the overall plan, so that the people can know the net result before paying more taxes? | ☐ | ☐ |
| 3. Should the President issue a quarterly, audited financial report to the people so we can know whether or not the results of the debt reduction plan are being achieved as scheduled? | ☐ | ☐ |
| 4. Do you want a Constitutional Balanced Budget Amendment, with emergency funding limited exclusively to National Defense? | ☐ | ☐ |
| 5. Should the President have the Line Item Veto to eliminate waste? | ☐ | ☐ |
| 6. If our government wants the American people to pay more taxes, should it provide leadership by example - all sacrifice begins at the top - by cutting Congress' and the President's salaries by ten percent and reducing their retirement plans to bring them in line with those of the American people? | ☐ | ☐ |
| 7. Should Congress agree to term limits that would automatically take effect if the specific debt reduction time table is not achieved? | ☐ | ☐ |
| 8. Should Congress and officials in the White House set the example for sacrifice by eliminating all perks and special privileges currently paid by taxpayers? | ☐ | ☐ |
| 9. Do you feel past international trade agreements have caused loss of jobs in this country? | ☐ | ☐ |
| 10. Should we eliminate foreign lobbyists completely - no loopholes - and make it a criminal offense? | ☐ | ☐ |
| 11. Should we dramatically reduce the role of domestic lobbyists to provide only information - not money directly or indirectly? | ☐ | ☐ |
| 12. Should we eliminate political action committees and soft money contributions to campaigns? | ☐ | ☐ |
| 13. Should laws be passed to eliminate all possibilities of special interests giving huge sums of money to candidates? | ☐ | ☐ |
| 14. Do you believe that Congress should not exclude itself from legislation it passes for us, and should correct this discrepancy immediately? | ☐ | ☐ |
| 15. Should major new programs such as health care reform be first presented to the American people in detail, and then tested in pilot programs to prove their cost effectiveness before they are implemented nationwide? | ☐ | ☐ |
| 16. Should the electoral college be replaced with a popular vote for the Presidential election? | ☐ | ☐ |
| 17. Was this TV forum worthwhile? Do you wish to continue participating as a voting member of United We Stand America? | ☐ | ☐ |

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When Ross Perot feels ornery about the way things are going in Washington—or, more correctly, the way he thinks they're not going—he heads off to TV. Given that, and the fact that the Clinton administration has had all of two months in the capital, it shouldn't surprise many that enough Perot ornerness has built up to prompt "The First National Referendum—Government Reform Presented by Ross Perot" (Sunday, March 21, NBC, 8 P.M. [ET]).

That's a mouthful for a program the businessman-turned-Presidential candidate spent \$500,000 to buy, a half-hour chunk of Sunday that can be labeled either infomercial or ego trip, depending on who does the labeling. Perot calls it the first of the televised town meetings he openly dreamed about throughout the 1992 campaign. During the broadcast, Perot will discuss such topics as a balanced-budget amendment, the line-item veto, and restrictions on foreign lobbyists, and then instruct viewers to express their opinions by filling out ballots he has provided. (Perot has bought ad space in TV GUIDE for his ballots, and a spokesman said he is also trying to place them in other large-circulation periodicals. A 900 number will be used as well.)

"This way the people will have a voice," says Perot, stating his avowed objective, which is also his major counter-argument to critics who are already lambasting the poll. "I just find it fascinating," draws Perot, segueing into his perfected outsider posture. "Any time you get close to anything where the people have a voice, they [professional politicians] go berserk."

(Or maybe just get concerned. One worry is that this sort of teledemocracy thwarts processes already in place for channeling public opinion into reform. "We don't have a system of shadow government, and certainly not one where it's self-appointed," reminds Brookings Institution media specialist Stephen Hess.

Perot

Stages a Living-Room Referendum

America's billionaire gadfly buys TV time for a "vote-in" show. Is it a stunt, a "recipe for disaster," or TV democracy?

Another fear is that the pop-quiz nature of the format invites knee-jerk voting. "It removes reflection from the decision-making," says political scientist Larry Sabato, who calls the referendum a "recipe for disaster."

The Perot Show hardly seems to merit that kind of hand-wringing, given its unlikely potential for rocking the Republic. "This is just another choice out there," says Brian Lamb, chief of C-SPAN, a cable service that relies heavily on phone-in shows to collect instant political opinion. "I don't find it all too frightening." While Perot may not be looking to scare anyone, he clearly wants to make real sure people pay attention. To compound the poll's results, he plans to break them down by Congressional district, a ploy calculated to maximize their impact on

lawmakers. He'll also check results by conducting a traditional poll using the same questions, and then comparing the numbers.

All the same, the whole enterprise may in the end amount to little more than polling the converted. After all, most of the people who'll cast ballots will already be faithful fans of Perot and his agenda. They'll record opinions during, or shortly after, his presentation—before opponents can challenge his facts. And there's nothing to stop enthusiasts from

voting more than once. "That's unscientific polling," says Democratic consultant Bob Squier. "You can't count on the results. I don't think it's terribly useful."

In the end, then, the Perot Poll could merely amount to consensus at a price: \$500,000 worth of like-mindedness. That bothers some, too, since in America there are lots of people with opinions about where the country should be heading—and half a million bucks to prove they're not alone. "My assumption," says columnist and media analyst Hodding Carter, "is that where Ross has trod, others with big money will want to go." NBC policy limits purchases such as Perot's to "significant national political parties or their spokespersons." He squeals by, but policies are made to be broken, adjusted, ignored and reinterpreted. As finances



become tighter and tighter at the networks, pocketbook programs may not be the broadcast novelties this one is.

Viewers can count on seeing at least one billionaire back in prime time. "Everything we do will improve over time," Perot predicts of follow-up referenda. Ratings-wise, that will be a tall order. His no-glitz campaign infomercials (with their pie chart-and-pointer production values) drew as many as 16 million viewers, and beat *Quantum Leap* and *Picket Fences* in the Nielsens.

If Perot's "first national referendum" does as well, then Washington will get the message: campaign seasons never end. And critics may find themselves faced with that most hated of TV enemies: the show even their worst reviews can't kill.

—David Lieberman

March 16, 1993

33 MAR 16 A 9:04

MEMORANDUM FOR JOHN PODESTA

FROM: Howard Paster *HP*

SUBJECT: Presidential note to Abby Saffold

Abby Saffold is Senate Secretary for the Majority, a key position in the staff structure subject to election by the Senate Democratic Conference. She is a solid ally, and has been helpful to the Administration on several issues.

Abby saved the attached envelope in which you transmitted the Cabinet nominations on January 20. Now I recommend the President sign the envelope with a brief greeting for Abby, and a thank you for her help to the Administration.

Thank you.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

THE CHAIRMAN

March 16, 1993 93 MAR 16 P8:15

MEMORANDUM FOR THE PRESIDENT

FROM:

LAURA TYSON *LT*
ALAN BLINDER *AB*

RE:

Budget Update

At the end of February, OMB made a rough estimate of how recent economic events--especially the stunning decline in long-term interest rates--affect future deficits. The main changes are:

1. Much lower longer-term interest rates than assumed in the budget. The OMB calculation assumes an 80 basis point reduction in long rates below CBO levels between 1993 and 1998. This saves \$14.5 billion in 1997 and \$60 billion over 1993-1998.
2. GDP in the fourth quarter of 1992 came in much higher than the CBO baseline forecast. Even keeping the assumed future growth rates the same, the entire projected path of future GDP is higher. This saves \$10.1 billion in 1997 and \$56 billion over 1993-1998.
3. The associated debt service savings from lower deficits along the way is \$4.6 billion in 1997 and \$18 billion over 1993-1998.

Adding this up, the 1997 deficit now looks \$29.2 billion better, and the 1993-1998 sum has improved by \$134 billion.

THE WHITE HOUSE
WASHINGTON

March 16, 1993

MR. PRESIDENT:

Mack asked that this be
forwarded to you.

John Podesta

007607



NATIONAL AUTOMOBILE DEALERS ASSOCIATION
8400 Westpark Drive • McLean, Virginia 22102
703-821-7000

93 MAR 16 P5:38

James K. Lust
President

February 25, 1993

The Honorable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

As President of the National Automobile Dealers Association and a new car dealer from Aberdeen, South Dakota, I commend you on the courageous action that you have taken to stimulate the economy and reduce the national deficit.

Franchised automobile and truck dealers, like all Americans, are deeply concerned about the federal deficit. We recognize that increased taxes along with spending cuts are necessary parts of your economic plan to reduce deficits. We recognize that it will cost money to stimulate the economy in a way that will result in permanent economic gains that will carry us through the 1990's. We feel that it is very important as you have acknowledged that no one segment of the economy be asked to carry more than its fair share of the tax increases.

Dealers are very emphatic that spending cuts should come before increased taxes are imposed on the citizens. We are very pleased that you have recognized this in many of your public statements since your message to Congress. By assuring that spending cuts will be enacted before tax increases take effect, we are confident that you will be able to follow through with your program to reduce the deficit.

For our industry in particular, maintaining or reducing the present level of interest rates is absolutely crucial. Higher interest rates reduce retail sales and substantially increase a dealer's interest cost of carrying a new car inventory.

We recognize that trying to stimulate the economy and reduce the deficit is a difficult task. However, we feel that now is the time to take action that will bring about these results.

We wish you the very best in your efforts.

Sincerely,

James K. Lust

/amw
Enclosure

QUICK FACTS ON U.S. FRANCHISED NEW-CAR DEALERS

The National Automobile Dealers Association represents more than 19,000 franchised new-car and -truck dealerships holding 35,000 separate franchises, domestic and import. The total new-car dealership body numbers over 23,000, and is vital to this nation's economy.

- ▶ New-car dealerships employ 890,000 people, with an annual payroll of more than \$24 billion.
- ▶ Dealership sales represent 16.7 percent of the total retail sales in the U.S.
- ▶ Consumers pay \$60 billion annually on motor-vehicle-related taxes.
- ▶ Three percent of the total revenue of all states is the result of sales tax generated by the sale of new cars and trucks.
- ▶ Over \$3.5 billion is spent annually by dealers on advertising, and over \$2 billion on floor plan costs.
- ▶ Dealers have invested more than \$4.7 billion in parts inventory alone.

March 15, 1993

MEMORANDUM FOR MACK McLARTY

FROM: RAHM EMANUEL *RE.*

SUBJECT: AIRLINE EXECUTIVES

In conversations with Richard Mintz, I encouraged Secretary Pena to call the CEO's of Delta, United, and American Airlines regarding the President's plan. According to the Secretary, Delta and United are okay. In addition, Crandall of American has said that he will mute his criticisms.

I have called Roy Spence to give him a heads up on the situation.

*Rahm -
Rush advice
+ Secy. Pena -
Pleased his visits
went acceptably well.
Good move to call
Roy.*

*Wag
cc: President
V - Pres.
B & B Rubin
Jub.*

xc: Rubin
Panetta
Montoya
CJR

93 MAR 16 A9:36

*The Mayor of San Juan
Capital City of Puerto Rico*

March 10, 1993

Ms. Carol Rasco
Assistant to the President for Domestic Policy
The White House
Washington, D.C. 20500

Dear Ms. Rasco:

It was a pleasure meeting with you to discuss President Clinton's economic recovery initiative and the possible negative impacts on Puerto Rico of limiting or rescinding Section 936 — the cornerstone of the Island's economy. I appreciate the opportunity to convey our concerns and look forward to working with you to ensure Puerto Rico is treated fairly and does not suffer a disproportionate negative impact.

As a mayor, I am very excited by President Clinton's plan, as many facets will be of great benefit to our cities, especially the additional funding for the Ryan White Programs, the \$2.5 billion increase for community development projects, the expanded Head Start program and the summer jobs program. Aside from our concern with the Section 936 provision, I feel it is a balanced program, and want to offer my endorsement and support.

I am confident you and other leaders in Washington will not let the plan have such a negative impact on Puerto Rico once a full and thorough evaluation has been realized. During my meetings here in Washington, I met much support and understanding of our position, and hope this will translate into concrete action to ensure this issue is addressed.

Once again, thank you for meeting with us on this most important matter. I look forward to working with you on this issue.

With my best regards, I remain,

Sincerely yours,

Héctor Luis Acevedo
Mayor

*Box 4355**San Juan, Puerto Rico*→ copy Rasmussen
Mack

007602

THE WHITE HOUSE
WASHINGTON

93 MAR 16 P5:18

March 15, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: ELI J. SEGAL *ESV*
SUBJECT: Enclosed Articles

Overall, the response to your March 1 address at Rutgers has been extraordinarily positive. Your speech received front page coverage in papers around the country on March 2, and we are aware of nearly 20 papers running editorials about your initiative in the subsequent weeks (ranging from the Bismarck Tribune to the Philadelphia Inquirer).

Two quotes are illustrative (from regional papers, which proved most supportive): From the **San Francisco Chronicle**: "If Clinton's fledgling program can help restore the tarnished spirit of service for the MTV generation, as the Peace Corps did for the baby boomers, the accomplishment would outshine the narrower goal of making college a more affordable option for more Americans. Anything that motivates young people to get immersed in community work -- tutoring, child care, pollution cleanup, health and drug counseling -- is good for them, good for the community and good for the nation. If it helps pay off college loans as well, all the better."

From the **Seattle Times**: "The goal is lofty. The work needs to be done. The cost is low. The program deserves congressional approval and funding."

Spin-off columns were also enthusiastic (I enclose Chris Matthews' and Coleman McCarthy's, in case you've missed them, and a cartoon). Generally, your appearance helped move the debate from being over whether the initiative was "scaled back" to an understandable interest in the ultimate legislative and operational details.

President Clinton
March 16, 1993
Page Two

The enclosed article from this week's TIME is more problematic. The column's focus (differential benefits for pre- and post-college) is similar to the "scaling back" debate -- it is peripheral. When we last met with you to discuss a short list of policy matters, we had arranged to reconvene about additional operational issues. We will be prepared to have that follow-up meeting within the next week, and at that time will present a handful of options regarding benefit levels, in the context of a broader presentation which will once again move the debate forward.

Dick Riley and I are working closely on the development of one piece of loan reform/national service legislation. We hope that it will be ready for introduction on, or shortly after, April 19 which is both a) when Congress returns after the Easter recess and b) the beginning of National Volunteer Action Week.

There are several non-legislative matters on our initiative which I would like to discuss with you including the summer program, Volunteer Week, military involvement in the program and inventory of existing federal programs. I will be in touch with Marcia on this with a view toward getting together later this week.

EJS:ke

lion uninsured. Sin taxes alone, however, won't be enough. Last week *Magaziner* privately asked representatives of large and small businesses how best to cap costs in the short term while phasing in benefits more slowly. That idea concerns some in the White House, who insist, as one put it, "We have to create winners before we create losers."

In the past two weeks, the AMA, U.S. Chamber of Commerce and the Pharmaceutical Manufacturers Association have publicly jumped on the managed-competition bandwagon. Under fire from the White House for price gouging, the drug-makers last week asked the Justice Department to grant an exemption from anti-trust prosecution so that they can negotiate voluntary price restraints. "The train is leaving the station," said a drug lobbyist. "We're just trying to slow the train down long enough... to get on board."

Until now, Hillary has not submerged herself in the day-to-day work of the task force but has been briefed regularly by *Magaziner*. For the most part, she has played congressional lobbyist, paying calls on members and listening for ideas while a trio of aides take copious notes. Lawmakers report that the First Lady, for all her reputed aloofness, knows the right moves. When Illinois Democrat Dan Rostenkowski suggested to Hillary that her husband was sending her into a "huge hellfire" on health care, she adroitly replied, "You know, Mr. Chairman, Chicago looks a lot better as a result of that fire." Legislators always get a letter the next day—and sometimes a picture—thanking them for their thoughts on very specific subjects. "This is not a casual exercise," said a top White House aide. "She is making a set of judgments about where there are sensitivities and who will be natural allies."

She is also involved in legislative strategy. For the past few weeks, Democratic leaders in the Senate have been wrestling with ways to attach the health-care bill to the economic package in a giant superbill later this year. Senate rules made the gambit look unlikely from the start, but last week Hillary joined one final push on the issue before Senator Robert Byrd confirmed that it wouldn't be appropriate.

The general public has yet to see the Hillary who is everywhere at once, perfectly conversant on 100 different health-care topics. For now, her goal is to avoid becoming a distraction—or a target for opponents. At a health-care forum last Friday in Tampa, Florida, a visibly tired Hillary listened quietly while witnesses made their cases for various reforms. She usually made her comments, such as they were, in the form of a question, much as Justices do when they hear oral arguments at the Supreme Court. Meanwhile the other 11 Hillaries were probably working back in Washington. ■

The Political Interest/Michael Kramer

Life After High School

"IF I EVER WIN THIS DEAL," BILL CLINTON SAID 14 MONTHS AGO, "AND IF I'm remembered for only one thing, I hope it's national service. It's the best money we could ever spend, and I mean to spend it."

As good as his word, Clinton is pushing a four-year, \$7.4 billion appropriation for national service, the plan that would permit students to finance their post-secondary education by working for up to two years in a variety of community jobs. Even with a price tag that steep, however, the program can fund at most 150,000 Americans a year by 1997, a fraction of the potential demand and a far cry from Clinton's campaign pledge that "every young American could borrow the money necessary to go to college" by "giving two years of his life to rebuild America."

A spirited debate has arisen as the plan's advocates maneuver to craft its details. The key question involves the program's target audience. The Administration is currently considering giving up to \$10,000 a year to those who serve after graduating from college, twice the sum contemplated for those who complete their work stint after high school. Neither figure would come close to purchasing a private education, but the White House says four years at many state universities could be covered by \$20,000. The three legislators most associated with national service over the years—Representative Dave McCurdy and Senators Sam Nunn and Barbara Mikulski—are dead set against favoring college grads. "Skew it to those who've completed college," says Nunn, "and you've wiped out a major rationale for the plan, which is to get kids of varied backgrounds to work together in a common civic experience. You also want to aid as many members of the college-age population as you can who want decent vocational training. Leave them behind and you pay later in welfare and other costs. And besides," Nunn notes, "most of the jobs that need filling, like helping the elderly in their homes—which could save billions in health-care costs—don't require a college degree." What's more, says American University president Joe Duffey, "at least a quarter of those who go to college aren't sure of what they want, so many drop out. A year or so of service can help them get their heads straight."

Clinton initially became enthusiastic about national service through his participation in the Democratic Leadership Council. Will Marshall of the D.L.C.'s think tank, the Progressive Policy Institute, offers several other reasons for concentrating on high school graduates. "First," says Marshall, "the opportunity costs to the economy are lower. If a college grad delays taking a regular private-sector job, society loses the tax receipts of his labor. Second, since most high school graduates would live at home and are unmarried, we'd be spared the ancillary housing and child-care costs the program aims to pay for. Third, job displacement is less likely. You don't want to put current wage earners on the street because national servants cost an employer less."

During a morning jog with McCurdy last Friday, Clinton confirmed what others have said, that his emphasis on aiding students *after* college derives in part from his desire to assuage middle-class voters upset with his breaking his promise to lower their taxes. Fair enough, but more middle-class families would receive help if their children joined the program after high school, as a confidential transition memorandum pointed out. The President ought to reread that memo and change course. ■



Touting the program in New Jersey

CYNTHIA JOHNSON FOR TIME



BY SIGNE WILKINSON FOR THE PHILADELPHIA DAILY NEWS

SATURDAY, MARCH 13, 1993 A21

Colman McCarthy

Clinton's Call to Service

No speech in the Clinton campaign was more inspirational than the candidate's remarks at the University of Notre Dame last September. As president, Clinton didn't match it until his March 1 speech at Rutgers University. At both campuses, he issued calls for national service for college students.

At Notre Dame: "If we are truly to practice what we preach, Americans of every faith and viewpoint should come together to promote the common good." It was similar at Rutgers: "National service is nothing less than the American way to change America."

Clinton's effort to rally the young to altruism has created a debate that pits idealism against realism, as if the two are forever locked in conflict. Where's the money, ask realists, for the tuition-for-service program that Clinton is proposing: \$389 million in scholarships for 25,000 students the first year and \$3.4 billion for 100,000 by 1997. Realists say that Clinton's sweet talk ignores sour facts: There's no money for a new social program.

From that negative, despairing argument, Clinton is supposed to get the message: Don't even try. That means don't lead, just preside. The past 12 years witnessed two presidencies in the White House. Most first-year college students today were in kindergarten when Ronald Reagan was elected and in fourth grade when reelected. They came into adolescence under a politician who tried nothing by way of linking government with national service. Instead of selflessness to others, he extolled self-enrichment.

Evidence suggests that the young weren't seduced either by Reagan's message of contempt for government or his disdain for altruism. The 1980s saw a surge in campus community-service programs, such as the ones Clinton praised at Notre Dame and Rutgers. Amnesty International chapters increased on campuses, as did those of Oxfam USA. Applications to Peace Corps remained high, as they did for such private domestic programs as the Jesuit Volunteer Corps and the Lutheran Volunteer Corps.

Yet Clinton's philosophy of service represents intellectual newness to many in high school and college. John F. Kennedy's appeals to national service are seen as historical relics, known from books but not live on MTV as are Clinton's. It wasn't a politician's celebrityhood that created support for the president at Notre Dame and Rutgers. Students saw in him someone with a positive message—put community interest above self-interest—that many professors and counselors at their schools had been exposing them to all along: If you can't teach the illiterate, comfort the sick and handicapped, or mend whatever and whoever is broken during your college years, you're receiving a limited education.

Clinton deserves to be honored for taking a risk that he'll be able to raise the money for his program of national service. Critics in Congress with no greater agenda than carping about ideas they were too dull-witted or timid to propose themselves now lie in wait for the president when he comes in with specifics. They will say Clinton's ideas are dangerous because they are romantic and utopian, a charge that ignores the thought of James Madison in 1788: "No theoretical checks—no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea."

Some critics charge that Clinton is into bribery: tuition money for service. While the details are being worked out on how much money for what service, who complains that the U.S. Army entices recruits with as much as \$20,000 toward a college education. Why isn't it bribery when ROTC programs pay students to shine their boots occasionally and take gut courses in military lore. Nor is much alarm expressed over the most lavish enticement of all: a free ride at the military academies in exchange for a few years in uniform after graduation.

Clinton's Rutgers speech marked the 32nd anniversary of the Peace Corps. Kennedy's spirited message was repeated by Clinton: "Answer the call to service." In "The Bold Experiment," a history of the Peace Corps by Gerard Rice, one of those who responded to Kennedy's call explained why: "I'd never done anything political, patriotic or unselfish because nobody ever asked me to. Kennedy asked."

So has Clinton.

3/5/93

In 1951, U.S. Rep. John F. Kennedy complained on national television about all the nerds he found serving in the State Department. Just back from a round-the-world trip, he asked why the country couldn't find "well-rounded" young people to serve abroad. Why, the young Massachusetts lawmaker wondered aloud on "Meet the Press," weren't there any "American types" representing us in foreign lands?

Kennedy had another complaint: How come those pinstriped Foreign Service boys infesting the diplomatic corps knew so little of the people of their assigned countries, so little of the local language and customs?

A decade later, the newly inaugurated President Kennedy offered a solution. His new Peace Corps would have three goals: First, it would help countries develop economically. More than that, it would show people overseas the best of what America can offer, the can-do zeal of its idealistic youth. Finally, it would expose America to foreign cultures by getting its youth fully immersed in them, "doing the same work, eating the same food, speaking the same language."

This week, a U.S. president inaugurated an enterprise with similar goals. Under Bill Clinton's national service program, Americans will work throughout the country in a variety of tasks — teaching, health care, community action. In exchange, they will receive government grants for their educations.

In launching his own new program, President Clinton paid tribute to the older one that had inspired it.

By entering other ghettos, these young people will escape their own.

The legacy of the Peace Corps, he said, is "not simply good will and good works in countries all across the globe, but a profound and lasting change in the way Americans think about their country and the world."

A returned volunteer could not have said it better.

Viewed from the outside, the Peace Corps is usually seen for what it achieves overseas, the furthered economic development, the enhanced U.S. good will. The secret every volunteer shares is what this service did for him or her.

Personally, I will never forget an experience of a quarter-century ago: that of standing in a schoolroom in Swaziland, a small, wonderful country in southern Africa, with 17 other people. All of them were local traders with whom I had been working. I knew them all personally, as you would any fellow worker. Yet in that rich range of personalities, it settled on me that warm afternoon that I was the only one in the room who was not a Swazi, the only one who was of a different color.

This is the heart of it: The great thing about joining the Peace Corps is that it gets you out there, out in the world. It forces you, against all your timidity, to deal one-on-one with people who were placed on this Earth in very different circumstances than you. It requires that, raised one way, you learn another. Ready or not, it makes a Peace Corps volunteer see the world he or she left behind with the same succinct clarity as astronauts once got to gaze on the globe.

The great prospect for Bill Clinton's national service program is that it will do much the same here in our own diverse land. Tens of thousands of Americans will get to see their country the way they would never have known it otherwise. The fortunate ones will be assigned to jobs and living environments far removed from where they came. They will meet people of totally different circumstances and religions and colors. They will develop a self-confidence about their country and its people they could never have gained staying at home, continuing along the same career-driven, TV-lit rut. By entering other ghettos, they will escape their own.

I speak from experience. Immediately after returning from the Peace Corps, I went to Washington, and, by knocking on some strange Capitol Hill doors, began a career that had me, while still quite young, working at the White House, writing speeches for a president.

My aging grandmother was impressed, not so much by the achievement as the differentness of my course, how extraordinary my road had been from those of my four brothers, all of whom had stayed fairly close to home.

"It was Africa, wasn't it?" she asked, already knowing the answer.

Yes, grandmom, it was Africa. And, thanks to President Clinton's national service program, many other Americans someday will answer a similar question with "Harlem" or "Alabama" or "Detroit" or "Alaska." This will be the shorthand for an experience that changed a life.

Christopher Matthews, Washington bureau chief for the San Francisco Examiner, is a nationally syndicated columnist.

2/2

THE WHITE HOUSE
WASHINGTON

March 16, 1993

93 MAR 16 P4:34

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM:

ANTHONY LAKE
HOWARD PASTER

SUBJECT:

Letter from Representative Schroeder RE: Using
1993 and Future Conversion Funds to Address
Environmental Cleanup of Military Bases

Purpose

To respond to Representative Pat Schroeder regarding environmental technology, and use of defense reinvestment and conversion funds to support environmental research and technology transfer.

Background

Representative Schroeder specifically mentions support for research the National Renewable Energy Laboratory at Golden, Colorado is doing on solar technology that can clean contaminated soil. The DoD Strategic Environmental Research and Development Program (SERDP) currently provides funding for this effort. More importantly, the Defense Reinvestment and Conversion initiative you announced will stimulate dual-use technologies and cooperative R&D partnerships that will promote environmental technologies and their transfer to the private sector.

RECOMMENDATION

That you sign the letter at Tab A.

Attachments

Tab A Letter to Representative Schroeder
Tab B Incoming Correspondence
Tab C DoD Fact Sheet on SERDP

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Chairwoman Schroeder:

Thank you for your letter of March 9 emphasizing the need in this time of defense transition for aggressive environmental technology research and technology transfer, such as that being conducted at the National Renewable Energy Laboratory (NREL) in Golden, Colorado.

I am firmly committed to taking aggressive action to restore and maintain our environment. Programs such as the Department of Defense Strategic Environmental Research and Development Program (SERDP) are being conducted in concert with the Environmental Protection Agency and the Department of Energy to fund innovative environmental technologies. I understand that SERDP funds are being used to support the NREL research on using solar energy to clean contaminated soil.

To further expand these efforts, the Defense Reinvestment and Conversion initiative I announced last week includes \$235 million in fiscal year 1993 to encourage partnerships between industry and DoE's defense and civilian labs. I agree wholeheartedly with your point on the importance of more efficiently transferring technology into the civilian sector, and I believe that the dual-use technology, technology extension and R&D partnership programs contained within our defense reinvestment plans will prove a firm step forward in addressing these needs.

As I mentioned in my remarks on defense conversion, Secretary Aspin has assured me that he will do everything he can to speed the environmental cleanup on bases that are

closed so that they can be turned over either to commercial purposes or to local government at the earliest possible time. In addition, a new position of Deputy Undersecretary of Defense for the Environment is being created at the Defense Department to place increased emphasis on these environmental issues.

I look forward to working with you and the Subcommittee on Research and Technology in implementing our defense reinvestment and environmental technology initiatives.

Sincerely,

The Honorable Patricia Schroeder
Chairwoman
Subcommittee on Research and Technology
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

March 9, 1993

MEMORANDUM FOR WILLIAM ITOH
NSC Executive Secretariat

FROM: HOWARD G. PASTER 

SUBJECT: Presidential Correspondence

Attached are copies of letters that were sent to the President from various members of Congress.

All of these letters address National Security issues and we would appreciate your assistance in having drafts written. Please return your response to LeeAnn Inadomi (WH-East Wing) within 5 days. She will then print the letters in final form and get it to the President for signature.

Thank you very much for your assistance. If you have any questions, please feel free to call LeeAnn at 456-7500.

The following is a brief description of the letters attached:

- 1) Pat Schroeder (D-CO), concerning defense conversion;
- 2) Arlen Specter (R-PA), concerning U.S.-Israeli relations;
- 3) George Brown (D-CA), concerning defense conversion funds;
- 4) David Bonior (D-MI), concerning Lebanon.

Attachments

1365

U.S. House of Representatives

COMMITTEE ON ARMED SERVICES

Washington, DC 20515

March 9, 1993

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

Dear Mr. President:

I met today with Secretary of Defense Aspin to discuss defense conversion and reinvestment issues. Secretary Aspin indicated that you plan to give a speech Thursday outlining the Administration's initiatives to use fiscal year 1993 conversion funds.

Given that another round of base closures will be announced within the week and that many closing bases from earlier years have been unable to close due to environmental cleanup requirements, I want to bring to your attention one idea to use 1993 and future year conversion funds to address environmental cleanup, and to get existing technology out of the laboratory and applied to pressing needs.

The National Renewable Energy Laboratory (NREL) in Golden, Colorado, has developed solar technology that can be used to clean contaminated soil. The staff at NREL have indicated they may have other technologies that may be useful to address environmental needs. I am sure that other national laboratories have technologies that could be used as well.

To expedite the beneficial use of this technology, I propose that you have the Departments of Defense and Energy spend funds to create prototypes for environmental technology, based on technology that exists in the laboratories. If these prototypes prove successful, then an Environmental Impact Statement could be developed for the technology. Assuming no significant adverse impact to the environment, this technology could be used at military bases throughout the country, as well as at private sites requiring environmental remediation.

This proposal would allow technology already in the possession of the Federal Government to be utilized for beneficial public use, addressing an unmet market need. More

The President
March 9, 1993
Page 2

importantly, it could serve as a model for transferring technology out of the national laboratories and into the civilian sector.

I hope you will give this proposal favorable consideration as a part of your current conversion plans as well as in future years. As chairwoman of the Research and Technology, with responsibility for conversion, I look forward to working with the Administration on creating and implementing an effective conversion plan.

Sincerely,



PATRICIA SCHROEDER
Chairwoman
Subcommittee on Research
and Technology

PS/si

DETAILED RESEARCH PROPOSAL

RESEARCH TITLE: Solar Detoxification of DoD Explosives in Soil

OBJECTIVE:

Implementation of this proposal will establish the feasibility of using solar energy to destroy explosive liquids and powders dispersed in soil. Explosive-contaminated soil at military facilities is one of the Department of Defense's (DoD) most serious environmental problems. The U.S. Army estimates there are 5 million tons of explosive-contaminated soil at 26 Army munitions facilities in the United States. Current remediation cost is about \$300/ton. The Army's goal is to find a method of cleaning the soil for \$100/ton, for a potential savings of \$1 billion.

APPROACH:

A bench scale experiment would be conducted using solar energy to destroy mixtures of explosives common to DoD facilities. The solar process would then be compared to other conventional and innovative processes, including incineration. Solar energy has been shown capable of destroying many hazardous chemicals using two complementary effects unique to solar energy. High energy photons in the ultra-violet and visible portions of the solar spectrum are capable of breaking chemical bonds in a quantum process while moderate energy photons in the infrared portion of the spectrum provide thermal energy that result in chemical destruction through thermal processes. The combination of quantum and thermal effects has been shown to destroy chemicals at a higher rate, and with fewer hazardous byproducts than usually seen with incineration.

BENEFITS:

This effort could result in a method of removing explosives from soil at a cost much less expensive and with fewer products of incomplete reaction than conventional methods. This could help the Army meet its goal of reducing clean-up costs at its bases by \$1.0 billion.

PARTNERS AND RELATED ACTIVITIES:

The U.S. Army Toxic and Hazardous Materials Agency, EPA, and DOE/CE are currently cooperating in an effort to demonstrate the use of solar energy for the detoxification of hazardous organic wastes in soils. Since many aspects of the technology would be the same, this proposed effort would gain the leverage of the existing project. Recent experiments at the National Renewable Energy Laboratory and the University of Dayton have shown that dinitrotoluene and nitrobenzene are excellent absorbers of solar energy. These results provide a strong indication that explosives can be destroyed by solar energy.

MILESTONES:

Work funded by this activity will be completed by the end of FY92.

FUNDING (\$M):

FY92

SERDP **1.0**

RESEARCH ACTIVITY: Frank Wilkins, Office of Building Energy Research, CE-42, Conservation and Renewable Energy, USDOE, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-1684.

Chron

THE WHITE HOUSE
WASHINGTON

DATE: 3/17

TO: Mark; Andre

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

The attached has been forwarded
to the President.

I knew if this
were held until St. Patrick's
Day, it would be much improved

THE WHITE HOUSE
WASHINGTON

93 MAR 17 A10:45

March 16, 1993

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: Mark D. Gearan 
SUBJECT: White House Reorganization -- Budget Savings

1. This memorandum responds to your request for an explanation of budget savings resulting from the proposed 25% reduction in White House staff.
 - o In a June 22 campaign speech to mayors, you made a commitment to cut the White House staff by 25%. Accordingly, our reorganization efforts focused on a total body count reduction in the Office of the President. This reorganization honors your commitment made during the campaign. That said, we do expect budget savings of \$10 million or more in FY'94. Accounting for inflation, this amounts to savings of approximately 14% in the EOP budget for FY'94 (and 17% of the EOP personnel budget for FY'94).
 - o Our reduction of White House staff included a large percentage of "detailees," staff who work in the White House, but are technically employed and paid by cabinet agencies. Detailees have traditionally been used to circumvent higher budget and staffing requests by the White House. While our reduction in the number of detailees has lessened budget savings for FY'94, it moves us closer to a more honest accounting of "White House staff."
 - o Our budget savings estimate also anticipates costs related to reducing the workforce, such as annual leave, severance, and possible unemployment benefits. Bush administration political appointees and career staff leaving the White House will receive these benefits. These "RIFF" costs have reduced our savings by an estimated 20% for FY'94. As an aside, you should note that we are making every effort to help career staff affected by the reorganization move to other federal jobs as appropriate.

THE WHITE HOUSE
WASHINGTON

March 18, 1993



MR. PRESIDENT:

Mack asked that I forward
this to you.

John Podesta

cc: Marcia Hale



THE WHITE HOUSE
WASHINGTON

March 17, 1993

~~Done~~
MAR 18 93 09:32
Res. paid
I [unclear] 15

MEMORANDUM FOR MACK MCLARTY

FROM: Alexis Herman

RE: Correspondence from Mayor Jackson

Recently at the Mayors Press Conference at which the President attended, the following was hand-delivered to me for transmitting to the President.

Letter from President of Morehouse College Dr. Leroy Keith delivered by Mayor Maynard Jackson of Atlanta.

Attachment

AMH:RGM



MOREHOUSE

C O L L E G E

Office of the President

February 8, 1993

The Honorable William Jefferson Clinton
President of the United States of America
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Clinton:

On behalf of the trustees, faculty, staff, alumni and students of Morehouse College, I extend warm greetings to you and the Clinton family. I take this opportunity to formally congratulate you on your assumption of the presidency; when last we spoke, during the Renaissance Weekend, the inaugural festivities had not yet begun. Please know that this college community stands in support of your presidency and wishes you Godspeed.

Mr. President, this correspondence serves as a formal reiteration of my verbal invitation to you to deliver the Commencement Convocation speech at Morehouse College on Sunday, May 16, 1993. I know that you have indicated your willingness to return to the College; indeed, we would be most honored by your return and participation in our Commencement exercises.

To assist you in determining the feasibility of your participation in this auspicious occasion at the College, I submit the following general information: our Commencement exercises are scheduled to be held on the College campus green at 5:00 PM, when we will confer degrees upon approximately 500 Morehouse graduates in the presence of about 8,000 parents, friends of the College and local and national dignitaries. Should these general logistics seem feasible and acceptable, we look forward to cooperating with your staff to effectively facilitate the important matters of transportation, accommodations and security.

We thank you for your time and consideration of this request, and look forward to a Commencement Convocation made incomparably dignified by the presence of, and message from, the President of the United States.

The Honorable William Jefferson Clinton / 2

For additional information, your staff may reach me at my office by telephone at 404/215-2645 or by facsimile at 404/659-6536. In my absence, Mrs. Jennifer Joseph, vice president for policy and planning, may be of assistance. During evening hours, please telephone my home at 404/352-3130.

With sincere respect and warm regards, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Leroy Keith", with a stylized flourish at the end.

Leroy Keith
President

LK/lj

THE WHITE HOUSE
WASHINGTON

March 18, 1993

MR. PRESIDENT:

Marilyn and Alan Bergman are old friends and asked that I forward to you the original manuscript of the lyrics for Barbra Streisand's appearance at the Ted Field fundraiser.

John Podesta

ALAN AND MARILYN BERGMAN

March 15, 1993

The President of the United States
The White House
Washington, D.C.

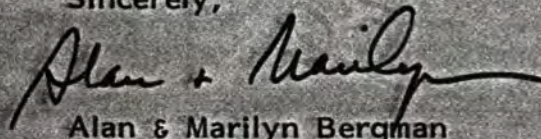
Dear Mr. President-

We want to thank you for the wonderful afternoon a few weeks ago, your stirring speech at Santa Monica Community College and then the treat of touring Air Force One!

Perhaps these original drafts of our tribute to you (to the tune of "It Had To Be You") will please you and remind you of September 16, 1992 and the "Voices For Change" evening.

Please extend our regards to Hillary and express our admiration and gratitude to her. We wish you both the very best and the strength to realize the extraordinary vision you have for our country.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alan + Marilyn", written in dark ink.

Alan & Marilyn Bergman

714 No. Maple Drive
Beverly Hills, CA 90210

Verse

It Has to Be You

8/10/92
For Clinton event

Morning, Evening
~~AM~~, ~~PM~~

~~I~~ I watch the news

~~AM~~, ~~PM~~

I get the blues

I'd be depressed

~~All~~ thru the rest of the day.

~~It~~ must have been that something

People call fate —

Kept on sayin'

I had to wait —

Now (~~that's fine~~) you are here

And most sincerely I say:

Chorus

It has to be you

It has to be you

According to me

You happen to be

The somebody who

The candidate who

~~I know will come thru~~ is bag over due —

That somebody new —

Whose just what we need

You're just what we need

And you're in the lead

We're counting on you!

(Has to be you - 2)

8/10/92

George Bush and Dan Quayle

They joff & they said -

One's not doing well

The other can't spell

Those fellows won't do

November the thing when shove comes to push

A Bill in the hand is worth two in the Bush

It's better to be you

It's gonna be you

And Albert free too

It has to be you.

The favorite sport in
Kennebunkport

(after bridge) 2nd half -

The favorite sport in Kennebunkport

Is passing the buck

While trying to duck

A scandal or two

Whenever they're stuck
For something to do

The thought of a change gave me a thrill

Can't wait to call you "President Bill" -

It has to be you -

And Hillary too -

It has to be you!

See side of his lips
And reading his lips

"IT HAS TO BE YOU"

Special Lyrics to "It Had To Be You"
by Alan & Marilyn Bergman

(verse) MORNING, EVENING,
I'D WATCH THE NEWS.
A.M., P.M.,
I'D GET THE BLUES.
I'D BE DEPRESSED
ALL THROUGH THE REST OF THE DAY.
IT MUST HAVE BEEN THAT SOMETHING
PEOPLE CALL FATE.
KEPT ON SAYING
I HAD TO WAIT.
BUT NOW YOU ARE HERE
AND MOST SINCERELY I SAY:

(chorus) IT HAS TO BE YOU.
IT HAS TO BE YOU.
IT'S EASY TO SEE
YOU HAPPEN TO BE
THE CANDIDATE WHO
IS LONG OVERDUE,
THAT SOMEBODY NEW
WHO'S JUST WHAT WE NEED
AND YOU'RE IN THE LEAD
WE'RE COUNTING ON YOU!

GEORGE BUSH AND DAN QUAYLE
THEY GOLF AND THEY SAIL
ONE DOESN'T LOOK WELL
THE OTHER CAN'T SPELL
THOSE FELLOWS WON'T DO.
NOVEMBER THE THIRD
WHEN SHOVE COMES TO PUSH
A BILL IN THE HAND
IS WORTH TWO IN THE BUSH
IT'S GONNA BE YOU
AND ALBERT GORE, TOO.
IT HAS TO BE YOU.

(last half-chorus)

THE FAVORITE SPORT
AT KENNEBUNKPORT
IS PASSING THE BUCK
WHILE TRYING TO DUCK
A SCANDAL OR TWO.
THE THOUGHT OF A CHANGE
GIVES ME A THRILL
CAN'T WAIT TO CALL YOU PRESIDENT BILL
IT HAS TO BE YOU
AND HILLARY, TOO.
IT HAS TO BE YOU.

JP copy

DATE: 3/18

NOTE FOR:

Buy Lane ~~XXX~~ Bob Rubin

The President has reviewed the attached, and it is forwarded to you
for your:

Information

☒

Action

☐

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

THE WHITE HOUSE
WASHINGTON

March 18, 1993

MR. PRESIDENT:

Attached is a decision memo that we just received from Tony Lake and Bob Rubin asking that you approve of certain technical modifications to the retaliatory measures you approved last month concerning the EC Utilities Directive.

The NEC, NSC and USTR want these modifications published in the Federal Register tomorrow since that is the last business day before the retaliatory measures go into effect.

The modifications have been sent to the Federal Register and will be published tomorrow assuming you approve before 5 pm today -- otherwise they will be pulled from the Friday Register.

(The retaliatory measures will take effect March 22 (Monday) since it is now clear that the EC will not waive their discriminatory practices before that date.)

We recommend that you approve the modifications.

Todd Stern

THE WHITE HOUSE

WASHINGTON

93 MAR 18 P1:47

March 18, 1993

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM:

ANTHONY LAKE

ROBERT RUBIN

SUBJECT:

EC Utilities Directive Retaliation

Purpose

To seek your approval for certain technical modifications of the proposed sanctions against the European Community's Utilities Directive, which are scheduled to take effect on March 22.

Background

As you recall, you authorized USTR on February 1, absent an agreement with the EC, to retaliate against the EC's Utilities Directive, which discriminates against U.S. suppliers of telecommunications and heavy electrical equipment. Discussion between the U.S. and EC have failed to reach an agreement. (Last week, Ambassador Kantor cancelled a scheduled negotiation session with EC officials because he felt certain it would not lead to a solution.) The retaliation is scheduled to go into effect March 22.

The attached memorandum from Kantor (Tab A) asks you to approve certain modifications of the statutory sanctions to mirror the discrimination imposed by the EC Utilities Directive, to protect U.S. business interests, and to simplify application of the sanctions.

Kantor does not believe the EC will counter-retaliate for these sanctions. He is meeting with his EC counterpart, Sir Leon Brittan on March 29 to discuss this issue, among others. We will keep you apprised of developments.

RECOMMENDATION:

That the technical modifications of the retaliation be approved.

Approve _____

Disapprove _____

Attachment

Tab A Memo from Kantor

cc: Vice President
Chief of Staff

THE WHITE HOUSE
WASHINGTON

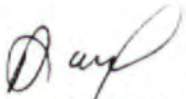
93 MAR 18 A 9:47

March 18, 1993

MR. PRESIDENT:

During your meeting today with Secretary Bentsen and Roger Altman, I thought you might want to know that Treasury came through at the 11th hour last weekend to identify about \$7 million as a transfer of funds to the White House to allow us to submit to Congress a request for a transfer of funds, rather than new money.

In return, Roger Altman got a White House pass. He sent me a note saying that he hoped it was the highest quality plastic. Tell him it is.


David Watkins



THE WHITE HOUSE
WASHINGTON

To: Will Itoh
for appropriate
handling

John Podesta

NOTE: THAT THIS WAS SENT
TO Andrew's attention. Those
former East German's are
smart
John

John Podesta
NSC should
probably see -
NH

Gerald Götting
Former Vice President, East Germany
Berlin, P. R. Germany
1206 Que Street, N. W.
Washington, D. C. 20007

The President
The White House
Washington, D. C. 20

Approved: Andrew Friendly
6/11/11 (JEG/EL)

INSPECTED BY
USSS
J-RAY

**SECRETARIAT GERALD GOETTING
FORMER VICE PRESIDENT, EAST GERMANY
BERLIN, F. R. GERMANY**

in the United States of America:

3206 Que Street, N. W.

Washington, D. C. 20007

tel.(202) 965-0563

fax (202) 333-1394

Gerald Götting

Berlin, 1 March 1993

H.E. Mr. William Jefferson Clinton
The President of the
United States of America
The White House
Washington, D. C. 20500

My very dear Mr. President;

The end of the cold war makes bold steps in advancing the nuclear-free world objective not less, but more important for a present danger, threatening all people, such as nuclear-proliferation, must be met by an early and joint response. It is within this context that I am honored to contribute my "good offices" as a means of the SG's preventive diplomacy in advancing, under UN auspices, multilateral talks on nuclear disarmament to explore elements of a new international consensus which takes into account the global dimension the problem has assumed. To help broaden the UN's mandate in the nuclear disarmament arena and to widen the scope and dimension of bilateral security guarantees to allow for increased UN leadership in formulating an international security policy aimed at alleviating current military imbalances has been at the core of my endeavors these past months.

I thought that, with reference to my letter of 4 January I would give you an update on my recent talks.

1. Summary Description

- 1.1. Objective:** Commitment of member states to achieve a nuclear-free world by the end of the decade
- 1.2. Goal:** Nuclear Weapons Convention (NWC) as both a precondition for and function of a widened UN mandate in nuclear disarmament
- 1.3. Four-Point Agenda:**
 - 1. In preparation of the UN's golden anniversary in 1995 member states announce their willingness to ban all nuclear weapons by the end of the decade and enter into early NWC negotiations. While, under a Security Council mandate, under Chapter VII of the Charter, retaining a limited number of high precision nuclear weapons as a component of containment and as an integral part of a multilateral minimum-deterrence strategy to ensure satisfactory compliance with the NWC, all member states move to codify, bilaterally or multilaterally, their respective obligations, under the NWC, in advancing the nuclear-free world objective. Member states move to extend, within the parameters of UN collective security, set forth in Article 51 of the Charter, "positive" guarantees, i.e. assistance as among allies, in the case of nuclear attack or threat of attack.

(Note: Point 1 was further developed in the aide memoir of October 22, 1992, to USG Petrovsky and forms the basis of the current explorative talks with member states.)

2. Under UN auspices member states move to conclude, at the earliest possible time, a comprehensive nuclear test ban treaty.
3. Under UN auspices member states move to ban further production of weapons-grade fissile material.
4. Under UN auspices member states move to ban further development of all ballistic missile delivery systems.

Preliminary discussions with member states seem to indicate two independent while interdependent policy approaches pursued in advancing the nuclear-free world objective that should not be viewed as exclusionary opposites but operational corollaries.

Two policy approaches

1. functional-integrative approach, i.e. the gradual implementation of the four-point action agenda
2. regional-integrative approach, i.e. the concentric circle approach

(multilateral)

(regional)

(bilateral)

bilateral:	e.g. U.S.-Russian talks U.S.-Ukrainian talks
regional:	e.g. South Asia conference proposal
multilateral:	UN, e.g. four-point action agenda

2. Report on first unofficial reactions of member states to the concept of multilateral nuclear deterrence

France

While holding firm on France's traditional "force de frappe" policy France, echoing in part key tenets of the evolving U.S. policy position, is nevertheless prepared to take the concept under advisement with some prospect of a favorable response provided that multilateral deterrence not adversely affect French strategic interests and the French nuclear forces be left unaffected.

India

Generally espousing the functional-integrative approach, India has voiced tentative approval of the objective, the goal and the action agenda and could, under certain circumstances, support a move in that direction, provided that the initiative originate from a member state other than India. India expresses certain reservations to leading any major initiative at this time for reasons that it not prejudice the ongoing bilateral U.S.-Indian security talks.

Ukraine

Ukraine welcomes the concept of multilateral nuclear deterrence within the framework of UN collective security as "a practical way to comprehensive nuclear

disarmament, the achievement of which is inseparably connected with the solution of the non-proliferation problem." Not only "will it provide active participation of all nuclear powers in the real nuclear disarmament, to what they were called repeatedly by the majority of the UN member states" but, "in combination with the adoption of the universal Nuclear Weapons Convention it would permit to exclude for ever the first-strike threat."

As the next logical step Ukraine proposes "the creation of a limited number of high precision nuclear weapons under a Security Council mandate as a component of containment and as an integral part of a multilateral deterrence strategy against violations of the NPT and potential nuclear threat or blackmail." For Ukraine, "this cardinal decision spreads "positive" assurances on all international community members as on the allied states. It also objectively promotes unity among the nuclear states, as taking into consideration their general responsibility for the maintenance of peace, as proceeding from the necessity of the joint approach to the problem of the use of limited deterrence forces in the case of serious threat to the international security."

Ukraine holds "the maintenance of these deterrence forces to be an adequate answer to the nuclear states in their search for security guarantees in connection with the transition to the limitation of their own nuclear arsenals."

United Nations

The concept of **"The UN and Multilateral Deterrence: The Comprehensive Solution to Nuclear Disarmament"** is a far reaching and all embracing proposal and as such deserves full attention by the United Nations. However, it has to be viewed in the light of its applicability in the present day changing political situation and newly-emerging circumstances.

Although the concept of **"multilateral minimum deterrence strategy"** sounds attractive as a way to replace the existing nuclear deterrence by individual States, it would seem to be a rather nebulous concept and premature to be a subject for negotiations. Accordingly, it could be envisaged only as a final result of efforts to change completely the existing security concept of States. This view seems to be supported by the reactions of the USA, France and Ukraine.

Consequently, it is imperative that we move to achieve, among member States, an early discussion of the concept of multilateral nuclear deterrence as integral to our deliberations on the scope and dimension of the **Nuclear Weapons Convention**.

3. Pursuant to my meetings with Congressional leaders in January I may briefly summarize my understanding of America's steadfast nuclear-deterrence posture.

There is, as the U.S. draft guarantees to be given to Ukraine upon ratification of START and the NPT would seem to indicate, a general willingness discernible within the Clinton Administration to rethink nuclear security within a broader framework in accordance with UN

Security Council Resolution 255 (1968). Moreover, the new leadership of the House Armed Services Committee under Chairman Ronald Dellums and Congresswoman Patricia Schroeder raises hopes of further movement of Congress in this direction provided that the U.S. retain the right of unilateral action in well defined limited areas of vital national security interest, that the cost of dismantlement be equitably shared among all member states and that environmental aspects be appropriately addressed.

4. Steps to be taken

I believe that, on the basis of the mission's preliminary findings, there is reasonable prospect for some movement during the April meetings of the UNDC along the general outline of the four-point agenda. Towards that end I agree with USG Petrovsky's contention it is imperative that we move to achieve, among member states, an early discussion of the concept of multilateral nuclear deterrence as integral to the exploratory talks on the scope and dimension of the Nuclear Weapons Convention. It is within this purview that the United States will have to play an important role in advancing the emerging consensus on nuclear disarmament agenda.

Within this context I also consider Ukraine a key player. Supported by India and Japan (reference is made to the Indo-Japanese Agreement of June 23, 1992, to Explore Nuclear Nonproliferation Concerns), Indonesia and perhaps other key NAM countries a move, as currently being contemplated by Ukraine would hopefully provide the necessary impetus to Member States to advance the issue in time for a broader discussion of the issue during the GA in September.

The UN's golden anniversary in 1995 affords us a historic opportunity for a new impetus in nuclear disarmament. Reassured following my meeting with USG Petrovsky last month and encouraged by the current round of talks with member states I discern a general willingness to move to ban all nuclear weapons at the earliest possible time and to enter into early negotiations on the NWC.

As I prepare for the next meetings I hold it to be important to be appraised of your thinking on the status report as to whether to continue the mission along the preceding outline. Continued substantive interface with the U.S. government is of paramount importance to the mission's eventual success.

I trust that you will find fault with the concept of multilateral deterrence. However, I hope that you will not reject it out of hand but will let me know your considered reactions.

Accept, dear Mr. President, the renewed assurances of my continued highest consideration.

Sincerely yours,





М І Н І С Т Р
З А К О Р Д О Н Н И Х С П Р А В У К Р А Ї Н И

05.01.93 НУКОР/49-24159

Mr. Gerald Goetting
3206 Que Street, N.W.
Washington, D.C.
U.S.A.

Kyiv, December , 1992

Dear Mr. Goetting,

With great interest I acquainted myself with your letter. I agree with you that nuclear proliferation is the most serious threat to international security. In this connection, the ideas set forth in your letter really propose a practical way to comprehensive nuclear disarmament, the achievement of which is inseparably connected with the solution of the non-proliferation problem.

To my opinion the concept of transition to multilateral deterrence within the framework of the UN collective security deserves interest.

It will provide active participation of all nuclear powers in the real nuclear disarmament, to what they were called repeatedly by the majority of the UN member states. In combination with the adoption of the universal Nuclear Weapons Convention it would permit to exclude for ever the first-strike threat.

The next step is logical too - the creation of a limited number of high precision nuclear weapons under a Security Council mandate as a component of containment and as an integral part of a multilateral deterrence strategy against violations of the NPT and potential nuclear threat or blackmail. This cardinal decision spreads "positive" assurances on all international community members as on the allied states. It also objectively promotes unity among the nuclear states, as taking into consideration their general responsibility for the maintenance of peace, as proceeding from the necessity of the joint approach to the problem of the use of limited deterrence forces in the case of serious threat to the international security.

The maintenance of these deterrence forces would be an adequate answer to the nuclear states in their search for security guarantees in connection with the transition to the limitation of their own nuclear arsenals.

As you correctly outlined, this plan addresses legitimate Ukrainian security concerns, because Ukraine shares the interests of other international community members in this field.

At the same time, Ukraine's situation concerning the nuclear weapons deployed in its territory is unique and unprecedented. At the time of disintegration of the former USSR Ukraine as an equal successor of the Soviet Union had an absolute right to be considered nuclear-weapon state. Free-will rejection by Ukraine of nuclear weapons, which it virtually possessed, is an exceptional case, which demands to approach Ukraine with different special standards, which are not applicable with respect to non-nuclear or threshold states.

In this connection Ukraine considers as an important condition of the realization of its declared course to achieve non-nuclear status, the obtaining of the reliable guarantees not only with respect to non-use of nuclear weapons, but also with respect to non-use of force against it in general or threat of force on the part of all nuclear states. Appropriate statements would be very important for us not only for their essence, but also as a fact of the recognition that our decision about the

free-will rejection of nuclear weapons is unprecedented.

It seems to us that the idea of the consideration of the question of the reauthorization of the NPT under the aegis of the UN also deserves attention. It will meet the interests of the global disarmament process and in particular, it would allow to involve in the circle of the NPT participants a number of new UN member states.

As for Ukraine, its intention to accede to the NPT as a non-nuclear weapon state is declared at the level of the supreme legislative body of our country.

In principle this action is not considered by ourself as only a political declaration: we would like that the fulfillment by Ukraine of the commitments under the NPT would not be broken by the lack of the solution of a great number of legal, economical, technical, ecological problems, which are connected with the elimination of the nuclear weapons on our territory.

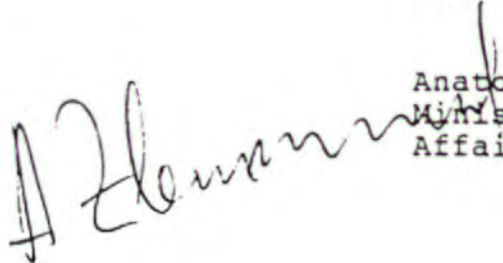
Just in that context the questions about the accession to the NPT and ratification of START Treaty are discussed now by the Ukrainian Parliament deputies.

We think that the accession of Ukraine to the NPT will play its positive part during the solution of the question about its prolongation. And this will be a real contribution of our country to the efforts to create a non-nuclear world.

Mr. Goetting, I frankly hope that we will have a possibility to discuss these interesting questions during our personal meeting.

Yours sincerely,

Anatoliy Zlenko
Minister for Foreign
Affairs of Ukraine



UNITED NATIONS NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE UNITED NATIONS, N.Y. 10017
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE UNATIONS NEWYORK

REFERENCE.

8 February 1993

Dear Mr. Goetting,

I would like to avail myself of this opportunity to thank you for sending me the Status Report on "The UN and Multilateral Nuclear Deterrence: The Comprehensive Solution to Nuclear Disarmament". Indeed, I find the views enunciated therein interesting and stimulating.

... As requested, I am enclosing herewith some preliminary comments on the above subject, which I hope you will find useful. Of course, I will have occasion to have a more extensive exchange of views on the matter when we meet in April.

Very sincerely yours,



Vladimir Petrovsky
Under-Secretary-General for
Political Affairs

Mr. Gerald Goetting
3206 Que Street, N.W.
Washington, D.C. 20007

*Hope to see you
in my new head-
quarters in Geneva
Best regard
VPS*

The U.N. and Multilateral Nuclear Deterrence:
The Comprehensive Solution to Nuclear Disarmament

The concept of "The UN and Multilateral Deterrence: The Comprehensive Solution to Nuclear Disarmament" is a far reaching and all embracing proposal and as such deserves attention by the United Nations. However, it has to be viewed in the light of its applicability in the present day changing political situation and newly-emerging circumstances.

Before commenting on some of the specific elements, it should be mentioned that the concept presented in the paper is similar to some other proposals made in the past. Thus, India's "Action Plan for Ushering at a Nuclear-Weapon-Free and Non-violent World Order" put forth at the third Special Session on Disarmament in 1988, in which it, inter alia, proposed the elimination of all nuclear weapons by the year 2010, in three stages. During the first phase, the following measures, among others, were proposed: immediate cessation of the production of nuclear weapons and weapons-grade fissionable materials, and a moratorium on testing to set the stage for negotiations on a CTBT. Also, in 1988 the Soviet Union reiterated its earlier proposal, as advanced by President Gorbachev on 15 January 1986, for a step-by-step elimination of nuclear weapons by the year 2000, to be implemented in three stages.

As far as more specific elements of the proposal are concerned, the following comments may be pertinent:

1. A Ban on All Nuclear Weapons by the End of the Decade:

For years the General Assembly has been adopting a resolution on the "Convention on the prohibition of the Use of Nuclear Weapons"; however, a growing number of States have pointed out that the concept is even less germane now, given the present international context. Moreover, a new proposal with the same aim would seem to have little chance of success.

- Multilateral Nuclear Deterrence - although the concept of "multilateral minimum deterrence strategy" sounds attractive as a way to replace the existing nuclear deterrence by individual States, it would seem to be a rather nebulous concept and premature to be a subject for negotiations. Accordingly, it could be envisaged only as a final result of efforts to change completely the existing security concept of States. This view seems to be supported by the "reactions" of the USA, France and Ukraine as can be discerned from the paper.

- It is not quite clear what is meant by the proposal "to codify, bilaterally or multilaterally, their respective

obligations, under the NWC". If the obligations are going to be undertaken through a universal NWC, other existing bilateral or multilateral obligations in the field of nuclear weapons would have to be modified or reinterpreted in accordance with the new convention, since otherwise their legal validity could come into question.

- The suggestion to give "positive" guarantees would need to be examined carefully, bearing in mind the fact that for years non-nuclear-weapon States have been trying to get the so-called "negative security assurances".

- As far as Article 51 of the Charter is concerned, there is no need to reaffirm the rights and obligations of Member States envisaged in this article.

2. A Comprehensive Test-Ban Treaty

There are some encouraging developments in this direction, such as unilateral moratoriums on testing by the three nuclear-weapon States (France, the Russian Federation and the United States). Nevertheless, the efforts to amend the partial test-ban Treaty so that it would become a CTBT has not been successful to date in the manner proposed. In this context, it should also be noted that proposals to that effect have been tabled at successive sessions of the General Assembly and that the PTBT Amendment Conference was held in 1991. Although positions continue to evolve in this direction, it is too early to predict whether the efforts will come to fruition.

3. A Ban on Further Production of Weapons-Grade Fissionable Material

Probably is the most realistic proposal, due to recent change in the positions of France and the United States. In this context, it may be noted that proposals to that effect have been tabled at successive sessions of the General Assembly.

4. A Ban on All Ballistic Missile Delivery Systems

Already there are some restrictions on the transfer of ballistic missile technology, such as the one through MTCR. The main shortcoming of this regime is the relatively small number of States participating in it. Thus, a regime as suggested and accepted at the global level, i.e., under UN auspices, would be a step in the right direction. It is not, however, clear whether the existing opposition to MTCR by a number of developing countries due to its "discriminatory" nature, would be alleviated by the acceptance of such a system at the global level. If it is going to be a part of a global NWC, then the chances for its acceptance would indeed be greater.

Gerald Rötting

MEMORANDUM

**TO: H.E. Vladimir Petrovsky
Under-Secretary-General
for Political Affairs
United Nations**

DATE: 22 October 1992

**SUBJECT: THE UN AND MULTILATERAL-NUCLEAR-DETERRENCE:
THE COMPREHENSIVE SOLUTION TO NUCLEAR DISARMAMENT**

Nuclear-proliferation is the most serious threat to international security and inseparably linked to comprehensive and equitable nuclear disarmament. With the cold war ended, the harsh lessons of past superpower conflict, notably among them inflated notions about the utility of nuclear weapons, must be heeded. Neither did nuclear weapons help the U.S. win in Vietnam, nor did they prevent the collapse of the Soviet Union from within.

As long as threshold states argue that possession of nuclear-weapons by some gives license to possession by others and weapons states can point to the unreliability of the verification regime, non-proliferation will prove illusive. Yet, I come away from recent meetings with Administration officials, Congressional leaders and various world leaders with a keen sense that now is the time to begin early negotiations on a Nuclear Weapons Convention to outlaw and dismantle all nuclear weapons, especially since the Bush White House has signed off on a comprehensive test ban by 1996.

The road to successful nuclear disarmament lies not in regionalism versus globalism in weapons possession, as some would have it, but in the advancement of

multilateralism over unilateralism in weapons use. Towards that end, successful reauthorization of the nuclear-nonproliferation treaty (NPT) in 1995 and full-scale nuclear dismantlement must be seen as both a precondition for and function of a new role for the UN in the nuclear disarmament arena.

To persuade threshold states to restrain from the nuclear option and to persuade weapons states to denuclearize presupposes our addressing nuclear-deterrence within the emerging concept of UN collective security. While our efforts at a global resolution must not stand in the way of partial success, where attainable, the mutual interdependence due to the almost equitable adverse consequences resulting from nuclear fallout necessitates a comprehensive approach.

What is called for is to move, within the framework of UN collective security, from a concept of unilateral-nuclear-deterrence to one of multilateral-deterrence. If member states agree to relinquish the first-strike option and if progress is made on the comprehensive test ban treaty in time for the NPT talks in 1995, then the next step should be to move to retain, within the UN, under a Security Council mandate, under Chapter VII of the Charter, a limited number of high precision nuclear weapons as a component of containment and as an integral part of a multilateral-deterrence strategy to ensure all member states' compliance with the NPT. That, in turn, requires an active role on the part of the UN, which is why it is imperative to bring the NPT reauthorization talks under UN auspices.

The concept of multilateral deterrence has been accepted in principle as early as UN Security Council Resolution 255 (1968) in which, building on the McCloy-Zorin agreement of 1961, the then USSR, the United States, and the United Kingdom made

statements of policy in the Security Council to come to the assistance, through the Security Council, of a non-nuclear weapon state, party to the NPT, subjected to aggression or threat of aggression with nuclear weapons. Time has come to move to extend to all member states, within the parameters of UN collective security set forth in Article 51 of the Charter, "positive" guarantees, i.e. assistance as among allies, in the case of nuclear threat or blackmail.

The nuclear-free world can be made safe only if we tighten the inspections and verification regime of an International Atomic Energy Agency (IAEA) which is operationally integrated into UN decisionmaking. Our objective must be to so criminalize possession, development, and proliferation of nuclear weapons as to warrant swift invocation of the stringent enforcement provisions set forth in the Charter, including surgical military strikes against illicit nuclear sites.

Given growing worldwide confidence in the UN such moves should enable threshold states to rethink their nuclear efforts. Weapons states, on the other hand, should feel comfortable in further drawing down unilateral nuclear stock piles since, as permanent representatives on the Security Council, they will retain veto power over usage. And if, as part of an international Nuclear Weapons Convention, calling for a ban on all nuclear weapons by the end of this decade, member states subscribe to relinquishing the first-strike option, then, such a situation would not arise.

Growing assertiveness on the part of various nonaligned countries coming out of the Jakarta summit clearly indicates that an equitable and comprehensive approach to the issue is a precondition of its successful resolution.

Weapons states and non-weapons states must realize that addressing the

other's legitimate security concerns is the best means to advancing one's own agenda. Weapons states should be made aware, that the concept of multilateral-deterrence under the UN not only addresses the security concerns of non-weapons states with respect to their demands for an equitable and comprehensive solution, but that putting the world's remaining nuclear weapons at the command of the UN Secretary-General addresses their concerns as well for they would achieve the nonproliferation goal while advancing the nuclear-free world objective, all the while retaining operational control over the UN nuclear arsenal. In essence, they would only relinquish political control with respect to a unilateral strike which would only be required if they were intent on retaining the first-strike option.

Later this month, UN Secretary-General Boutros Boutros-Ghali will deliver the Report on the World Disarmament Campaign. If, subsequently, the General Assembly helps in advancing the international debate on the synergism between willingness on the part of weapons states to denuclearize and willingness on the part of threshold states to adhere to the NPT, then we have taken a giant step in advancing towards a nuclear-free world and we should recognize Boutros-Ghali for his courageous leadership on this important issue.

THE WHITE HOUSE

WASHINGTON

March 17, 1993

93 MAR 17 PM 2:21

MEMORANDUM FOR THE PRESIDENT

FROM: Carol H. Rasco *CHR*

SUBJECT: Oregon Waiver

I. SUMMARY

Attached is a memorandum from Secretary Shalala on the Oregon Medicaid Demonstration Waiver. This is to be a Secretarial decision and she is prepared to sign it; she has promised a decision to Governor Roberts by Friday, March 19.

II. DISCUSSION

In addition to the main memo with Tabs A, B, and C are two memos which are (1) a Q and A about the project and (2) a political memo (this is the only copy) which outlines statements by you and the Vice-President.

I have asked the Vice-President's office and the Secretary's office to arrange for a briefing of the Vice-President today or tomorrow.

The only outstanding question for you now is whether or not you want a briefing/discussion with the Secretary and appropriate HHS staff members along with the Vice-President and members of your staff.

☒ Inform the Secretary to proceed

☐ I want a formal briefing/full discussion before the Secretary proceeds

*you or I shall talk w/ Gov (H)
they HRC to make sure she sees
no problem but if it OK on H,
I'd say go ahead - I take it
you agree - Do you?*



MAR 16 1993

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Oregon Medicaid Reform Demonstration Waiver

I. ACTION-FORCING EVENT

Oregon's legislature, currently in session, meets only every two years. I have promised the State a final decision on its Medicaid Reform demonstration proposal by March 19.

II. BACKGROUND/ANALYSIS

The Oregon Health Plan is a comprehensive, legislatively-approved package of reforms intended to provide universal health insurance coverage to all State citizens, and to introduce cost control. One component is the Oregon Medicaid Reform Demonstration Plan which would cover all Oregonians below the Federal poverty line for defined treatment interventions connected to a specified set of medical conditions. Both the expansion of eligibility and the limitation of coverage to specified condition-treatment pairings would require Federal waivers.

Under Section 1115 of the Social Security Act, I am granted very broad waiver authority for any demonstration which, "in the judgment of the Secretary is likely to assist in promoting the objectives" of the Social Security Act. No other guidelines are listed in the authorizing legislation, and previously this Department has mainly sought assurances that any proposed demonstration was legal and budget neutral to the Federal government.

The proposal itself has many strengths. These include: universal protection, promotion of access and cost containment through managed care, and a thoughtful, open and inclusive development process. Moreover, approving the proposal would signal the Federal Government's trust and respect for state experimentation and initiative. It is a bold experiment. We at HHS believe the proposal is evaluable and could yield useful information on various questions regarding delivery and access to health care.

Plan Methodology -- A number of major concerns ought to be considered, most of which involve the overall methodology of the Plan and its perceived "rationing" of health care services.

The Oregon Health Services Commission (five physicians, two registered nurses, one medical social worker, four consumer advocates), supported by groups of medical specialists, used evidence on cost and effectiveness as well as subjective judgements in developing and ranking a series of condition-treatment pairs. The total list prioritizes 688 condition-treatment pairs. The Oregon legislature has decided that it is currently able to fund coverage of the top 568. The present list of uncovered services (e.g.,

The President -- 2

number 586, surgical treatment of benign neoplasms of the digestive system; number 594, reconstructive breast surgery following cancer surgery; number 587, acute and chronic disorders of the back without spinal cord injury) does not appear to raise highly disturbing ethical or medical issues, largely because the Commission used its subjective judgement to move any procedures which would raise serious concerns above the cut-off point.

ADA Legal Issues -- Two broad issues arise with regard to the methodology. The first is legal. In particular, does the plan violate the Americans with Disabilities Act (ADA)? The former HHS Secretary decided in August 1992 he could not approve the Oregon Medicaid demonstration pending resolution of legal issues related to the ADA.

Oregon sought to address those ADA concerns in its resubmission. Nonetheless, one legitimate, but in our view resolvable concern, raised as early as last October, remained: whether the methods used for ranking non-lethal condition-treatment pairs violate the ADA by appearing to favor outcomes in which the patient is freed of all symptoms. After face-to-face discussions on this issue in Oregon late last week, our General Counsel and the Civil Rights Division of the Justice Department believe the ADA issues have been successfully resolved. In essence, Oregon has agreed to re-rank the condition-treatment pairs without regard to symptomatic-asymptomatic considerations. (See Tab A on legal issues.) We do not believe that this re-ranking by the Commission will significantly alter the list of covered services.

Appropriateness of the "Rationing" System -- The larger issue concerns the validity of rationing at all, especially prior to wringing all possible inefficiencies out of the current system. To opponents of the plan, it provides additional coverage for one group of poor persons, in part, by reducing benefits to another. It is also said to signal that the poor deserve less medical care than others. Certain groups such as the elderly and disabled are excluded initially from the demonstration, so they are not being rationed. This initial exclusion raises questions of equity. (Oregon says it expects to add these groups within a couple of years; when the State's proposal for including these groups becomes available, it will be carefully assessed by this Department.) Finally, opponents raise legitimate questions about the scientific basis for the rankings in the first place.

This is already true
[Supporters counter that all states' Medicaid programs "ration" health care, usually through obscure, budget-based executive branch decisions to limit benefits' amount, scope and duration, or to exclude optional services. Oregon proposes, instead, an alternative rationing scheme which attempts to exclude the least important services through an open and accessible process, rather than using arbitrary service limitations.

The list of excluded services does not appear to present serious problems as the standards are currently drawn. Opponents often complain less about the current list of exclusions, and more about the possibility that as budget pressures grow, Oregon will begin to exclude far more serious conditions. Partly in response to these concerns, we

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have negotiated very strict conditions with Oregon. Should the waiver be granted, any change in the rankings or the list of covered condition-treatment pairs will require HHS approval. We have made clear we would be skeptical about major new exclusions. Most opponents have been unaware of this new condition, and in several cases, including Representative Waxman, learning of it has reduced -- but certainly does not eliminate -- concerns about the plan.

Budgetary Issues -- There are other concerns as well. We are skeptical that Oregon can do all the things it promises at the budgetary cost they project. We have built in extremely strong Federal financial protection into the waiver, and Oregon has accepted these conditions. Thus the Federal financial exposure is minimal. If the costs are higher than expected, Oregon will have to pay them. But budget pressures could push Oregon to seek either additional expanded Federal financial support or a significant change in the list of excluded services in the future.

Connection to Health Reform -- Finally, important questions remain about the connections between Oregon's plan and health reform. While the overall goals of the two efforts are quite similar, Oregon's plan seems likely to be different from the proposal you will eventually develop in several important ways. If health reform is passed, major parts of the plan would have to be reformulated (and, in concept, Oregon has agreed to make changes which may be necessary). Some worry that accepting the Oregon waiver will be interpreted as a signal of where national health reform is headed and, if we are to argue that such an interpretation is incorrect, the question then becomes why are we approving an approach which cannot be synchronized with the overall health reform plan. (A summary of key issues is at Tab B.)

III. OPTIONS

Negotiations with Oregon have progressed to the stage where the basic decision now is either accept or reject the waiver. We must decide whether to approve the proposal, subject to terms and conditions which include (a) requirements of prior approval by HHS of changes in the prioritization list and (b) limitation on the degree of Federal financial exposure. (A draft list of special terms and conditions is at Tab C.)



Donna E. Shalala

Attachments:

- Tab A -- Legal Issues
- Tab B -- Key Issues
- Tab C -- Special Terms and Conditions

TAB A

Analysis of ADA Concerns with Oregon's Revised
Methodology for Prioritizing Health Care Services

BACKGROUND

On August 3, 1992 former Secretary Sullivan informed Governor Barbara Roberts of Oregon that the State's Medicaid Demonstration proposal could not be approved until a number of identified concerns arising under the Americans With Disabilities Act (ADA) were resolved. Department officials worked with Oregon over the next few months and on November 13, 1992, Oregon submitted a revision to its methodology for prioritizing health care services under its demonstration.

Oregon's Revised Methodology. Oregon's revised methodology is based on the Health Services Commission's attempt to rank services according to their medical effectiveness. The Commission measured effectiveness first by the ability of a treatment to prevent death as a result of a condition. When two or more treatments were tied on this basis, the Commission looked to the degree to which a person is likely to be asymptomatic after treatment. Remaining ties were broken by ranking treatments according to their cost, with lower cost treatments being ranked higher.

The Commission then reviewed a computer-generated ranking of health services, based on the above methodology, and made "hand" adjustments to the list to reflect the following social values that Oregonians had expressed at public meetings and hearings:

Highly valued services were--

- Healthy mothers and healthy babies
- Comfort care
- Family planning services
- General preventive services
- Prevention ranked before treatment for the disease
- Treatment for contagious diseases

The following services were considered less important--

- Treatments for conditions that get better on their own
- Cosmetic services
- Infertility services
- experimental services

Problems with the Revised Methodology. While the revised methodology is fully responsive to the concerns that were

originally raised, the Department of Justice¹ and a number of disability advocacy organizations have criticized the new proposal as also being inconsistent with the ADA, but for new reasons arising out of the revised methodology. The specific concerns raised by the Department of Justice are the following:

After the initial ranking of treatments according to ability to prevent death, the treatments that are equally effective in that regard are ranked according to their ability to return an individual to an asymptomatic state. As between two treatments that are equally effective in preventing death, a treatment that is more likely to return an individual in his or her previous health state will be ranked higher than one that may result in residual symptoms. Since Oregon defines symptoms with reference to conditions such as "functional impairment" as well as residual medical conditions, individuals whose medical conditions may leave them disabled even after treatment will rank lower on this scale.

Because of the substantial hand movements made by the Commission, this factor may not ultimately have much actual impact on placement of a particular condition on the list. However, sanctioning its use in this demonstration could be found to violate the ADA in that treatment for an individual may be given lower priority "by reason of disability."

We have proposed that ~~Oregon should rerank the condition/treatment pairs without using this factor.~~ It should be fairly easy for the Commission to generate a new list without using that factor and then to apply the hand adjustments according to the factors that were previously used. The Congressional Office of Technology Assessment has indicated that because of the extensive hand movements, the ranking methodology used by Oregon ultimately had only a small effect on the final rankings. Therefore, this revision should not have a substantial effect on the prioritized list.²

While it is not clear that a court would invalidate the waiver under the ADA because of this factor, there is certainly some risk of that outcome should litigation ensue. We understand that the mainstream disability advocacy organizations are not anxious to file suit against an Oregon waiver and that they definitely would not sue if this change is made. For that reason we have strenuously urged Oregon to make these changes.

¹ See attached letter from the Assistant Attorney General, Office of Legal Counsel to the Acting General Counsel, Department of Health and Human Services dated January 19, 1993.

²Office of Technology Assessment Health Program Staff
Memorandum, Re: Brief Analysis of Medicaid Waiver Resubmission, December 23, 1992, pp. 1, 4.

Oregon has agreed to make the changes we suggested, including adding a new criterion to the list of factors used to make hand adjustments that would reflect medical effectiveness. This criterion could not, however, reflect functional limitations but must be based only on medical factors. Oregon and we recognize that this is only an interim step and that we will work with the State to help them to develop a revised methodology that does not implicate the ADA.

The other legal issues involving the waiver were much more easily resolved. In particular--

- o The Department of Justice criticized the ranking system because it used "value laden" judgments about the importance of certain health states. In particular, infertility services were given a low priority by the Commission in its hand movements.³ Because infertility is undoubtedly a disability under the broad definition in the ADA, the Department of Justice questioned whether it is permissible under the ADA to devalue that service simply because it is considered less important than other services.

Oregon will resolve this problem either by excluding infertility services altogether from the Medicaid program (which it is permitted to do) or by applying content neutral criteria (such as cost or medical effectiveness) in determining what priority should be accorded these services.

- o The Department of Justice observed that some of the considerations applied by the Commission in making hand adjustments are described at such a level of generality that it is not possible to conclude on the present record that factors impermissible under the ADA had no effect on the ranking process.

The Department of Justice did not have the benefit of considerable additional information, including computer runs, analyses of movements on the list, minutes of

³ None of the other criteria applied by the Commission is as condition-specific as its treatment of infertility. The other criteria, discussed above, relate to health and societal values that are content neutral, i.e., they do not measure the value of a treatment with reference to a condition that may be a disability. Therefore, we believe that if the problems the Department of Justice identified with relation to infertility can be resolved, the issue of "value laden" criteria will be resolved as well.

Commission meetings, evidence of substantial involvement of the disabled community in the ranking process, and other information that has been made available to us by Oregon. All of this information indicates that the movements made by the Commission were done so for the reasons indicated, i.e. to reflect the health policy considerations they had adopted and that (with the possible exception of the low priority for infertility services) are content neutral and permissible considerations under the ADA. The Justice Department has indicated that this additional information fully resolves its concerns in this regard.

- o Although not raised by the Department of Justice, advocacy organizations representing the disabled have pointed out that some treatments that are below the line, while not of high priority to ordinary individuals, may be of extreme importance to impaired individuals. In administering the Oregon plan, providers who are not fully educated on all the items on the list, but who merely know which items fall below the list, may believe that important treatments for individuals with co-morbidities will not be covered. The vagueness of the descriptions of some condition/treatment pairs exacerbates this concern. Since the ADA prohibits the use of methods of administration that discriminate by reason of disability, this failing may violate the ADA.

Oregon has agreed to adopt policies that will ensure that before denying treatment for an unfunded condition for individuals with a disability or a co-morbid condition, providers will be required to determine whether the individual also has a funded condition or a condition comparable to a funded condition that can be treated. The State has also agreed to consider maintaining an information line to assist providers in making these determinations.

Conclusion

We believe that, with the revisions discussed above, approval of the Oregon demonstration proposal would not be inconsistent with the ADA. We have shared these views with the Department of Justice and they agree.

TAB B
THE OREGON WAIVER REQUEST
Key Issues

The Oregon Health Plan is a comprehensive, legislatively approved package of reforms intended to provide universal health insurance coverage and cost control to all State citizens. This will be accomplished through an expansion of Medicaid eligibility to all poor citizens, private insurance reform, risk pooling, and phased-in employer mandates ("pay or play"). One component, implementation of which would require Federal waivers, is the Oregon Medicaid Reform demonstration plan.

This memo discusses key issues regarding the plan. We have organized the discussion of the key issues around six questions:

1. What are the strengths of Oregon's proposal?
2. Does the proposal violate the Americans with Disabilities Act?
3. Does the Oregon proposal constitute unacceptable rationing of care?
4. Can Oregon really provide the coverage it proposes within the budget it promises?
5. Is it evaluable?
6. What is the relationship between the Oregon proposal and national health care reform?

I. What are the strengths of Oregon's proposal?

Universal Access

Under the Medicaid waiver, all Oregonians below the poverty level would be covered by Medicaid. Thus, over 5 years some 90,000 single adults, childless couples, and families with children with incomes above the current eligibility levels would be brought into Medicaid eligibility an increase of 36%. An especially attractive feature of this arrangement is a substantially simplified eligibility determination process.

In addition to the expansion of Medicaid, State statutes mandate that by a set future date, all employers must "play or pay" -- that is, help finance health insurance coverage for their employees or pay into a state insurance pool.

The State has also legislated a "risk pool" to enroll persons considered medically uninsurable.

Promotion of Access and Cost Containment Through Managed Care

The State proposes to move virtually all Medicaid beneficiaries into one or another model of managed care. Some -- mainly those in urban areas -- will go into fully-capitated health plans from fee-for-service. Others will go into "Physician Care Organizations," a partial capitation model through which the State now contracts for

ambulatory care services for 65,000 Medicaid beneficiaries. Residents of sparsely-populated areas will be enrolled in managed fee-for-service systems.

Thoughtful, Open, Inclusive Development Process

* Whatever other shortcomings the proposal might have, the openness and inclusiveness with which the reform proposal was developed represents a "best practices" process. In addition to the legislative hearings and deliberations, a Health Services Commission was established, staffed, and supported by the work of expert physician panels. As specified by law, the Commission: held 12 public hearings and 47 two-hour community meetings at which over 1500 people testified; met with health care providers; conducted a telephone survey of 1,001 Oregonians to ask them what value they attach to different health states; and obtained expert reaction to the proposed methodology.

Signal About the Federal Government's Respect for and Trust in States

The elements of the proposal described above are clearly compatible with a number of the basic principles underlying the Administration's approach to health reform -- universal coverage, case management of health services, cost containment, and a broadly-participatory design process that involves the people affected. Approval would recognize this effort on Oregon's part and would signal confidence in the creativity and responsibility of the states as partners in the health reform process.

II. Does the proposal violate the Americans with Disabilities Act?

In August of 1992, the Justice Department determined that one aspect of the priority ranking process was "based in substantial part on the premise that the value of the life of a person with a disability is less than the value of a life of a person without a disability," hence violative of the then-recently passed Americans with Disabilities Act (ADA). It was on this basis that former Secretary Sullivan declined to approve the original proposal.

Oregon re-submitted its proposal on November 13, 1992, including a number of changes designed to address ADA-related matters. However, on January 19, 1992, the Justice Department again informed the Department of Health and Human Services (HHS) that the Oregon priority ranking process was deficient because the ranking favored condition-treatment pairs which return patients to an asymptomatic state over those which leave patients with remaining symptoms. That is, a condition-treatment pair where the patient had symptoms which were completely cured or relieved by the treatment was ranked higher than a condition-treatment pair where the symptoms were not fully cured or relieved (as might be the case with someone who was left disabled). This ranking process was construed as a bias against those with disabilities and contrary to requirements of the ADA.

Since that time, the Department has had extensive discussions with officials of the Oregon State government regarding further modifications of their prioritization process. These discussions culminated in face-to-face discussions on this issue in Oregon late last week between key HHS and State personnel, following which our General Counsel and the Civil Rights Division of the Justice Department believe the ADA issues have been successfully resolved. (See Tab A on legal issues.)

III. Does the Oregon Proposal Constitute Unacceptable Rationing of Care?

"Rationing" as a Strategy for Limiting Costs

For most opponents, the decision to explicitly exclude certain condition-treatment pairs is at the heart of their worries about the proposal. The concerns are as much philosophical and symbolic as substantive. Is it fair and appropriate to "ration" care to low-income families while care is not necessarily "rationed" to other Oregonians in the same fashion? Or to put the matter even more bluntly, is it appropriate to increase coverage for some poor persons by reducing the protection granted to others? Many fear that accepting the Oregon plan legitimizes a strategy with a very slippery slope which will ultimately lead to second class medical coverage and care for the poor, both in Oregon and, if adopted more broadly, elsewhere. They worry that budget pressures will cause Oregon to reduce sharply the number of covered condition-treatment pairs. And most importantly they argue it sends the worst kinds of signals about the rights of poor persons to medical coverage.

When one moves beyond the signals and symbols, the substance gets more ambiguous for three reasons. First, everyone agrees that Medicaid services are now rationed in more hidden ways (like low reimbursements which limit provider participation, and limitations on the amounts of mandatory services that are covered).

Second the amount of actual rationing via application of the current cut-off point in the prioritization list appears to be modest. Indeed, the Department's view is that the costs associated with the list of uncovered services are so modest that the State's expectations that it will achieve significant savings by their exclusion are unrealistic. Nonetheless, there is a substantial argument that the removal of system inefficiencies ought precede even minor benefit reductions.

Covered services will include expanded benefits for adult preventive care, dental care, and hospice services. The enumerated list of State-covered Medicaid condition-treatment will serve as the basic employee benefit package when mandated employer coverage is phased in. Excluded services include procedures such as surgical treatment of benign neoplasms of the digestive system (no. 586), reconstructive breast surgery following cancer surgery (no. 594), and acute and chronic disorders of the back without spinal cord injury (no. 587).

Third the State has already agreed to conditions whereby it could not modify the list in any way nor reduce the covered treatments without prior approval from HHS. Most opponents are unaware of this condition--something to which HHS and Oregon agreed to some time ago. Indeed, a number of the most vociferous opponents, including Representative Waxman and Sarah Rosenbaum, seem much more comfortable with the plan so long as this proviso is included and applied rigorously.

Initial Exclusion of Aged and Disabled

Initially the aged and disabled, and mental health and substance abuse services are not included in the demonstration. These groups and services are covered under the old Medicaid rules. This exclusion cuts two ways. On the one hand, it blunts criticism with respect to rationing for the aged and disabled. On the other hand, it raises the argument that services are being reduced for women and children while protecting other, more politically powerful groups. At some point in the future, the State anticipates bringing these groups and services into the demonstration. HHS approval of the State's specific implementation plans for these populations groups and services will be required.

The Oregon Ranking Process and its Scientific Validity

The Oregon Health Services Commission (five physicians, two registered nurses, one medical social worker, four consumer advocates), supported by groups of medical specialists, used evidence on cost and effectiveness as well as subjective judgements in ranking procedures.

Unfortunately the data and evidence for such rankings is often weak -- in part because the needed studies do not exist. The Office of Technology Assessment (OTA) recently released a report critical of Oregon's procedures, especially the Commission's re-ranking of some 25 percent of condition-treatment pairs based on members' subjective tests of "reasonableness." OTA and others point out that a procedure often is cost-effective for one person with a particular condition and wasteful for another, so a single ranking with blanket inclusions and exclusions often may lack patient-specific clinical appropriateness. Many critics question the whole notion of ranking procedures on the basis of some "average patient," and argue that the data are far too limited to rank things adequately even if one thought it appropriate to do so.

IV. Can Oregon Really Provide the Coverage it Proposes Within the Budget it Promises?

The Costs/Savings From the Program

The State originally estimated additional federal costs of \$140 million; Oregon now estimates that the demonstration will save \$3 million in Federal costs over 5 years. Against a base program cost of more than \$5 billion over the period, either of these estimates, whether for costs or savings, is imprecise but comparatively insignificant.

Oregon's goal is to save money by reducing the number of covered Medicaid services and by using managed care. They intend to use the savings to cover the low-income population. However, as noted previously, excluding these services may not save much money. In addition, under this plan, Medicaid payments to providers are required by State statute to be set and maintained at a level sufficient to cover providers' costs; this will substantially enhance payments to providers and significantly raise costs with managed care incentives alone working to wring out inefficiencies from the system.

Thus, the possibility of significant out-year savings is largely dependent upon two factors: (a) savings from broad enrollment in managed care which, while potentially quite substantial, are, to date, modest; and (b) movement of Medicaid beneficiaries out of Medicaid and onto employer-sponsored coverage under Oregon's "play-or-pay" mandate. In both cases, any net savings are at least several years away and costs are expected to increase in the short run.

Budget Implications Now and for the Future

In response to concerns about the potential costs of the program, the Department has developed procedures that sharply limit Federal expenditures under the demonstration. OMB and HHS both believe that the Federal government is well protected by these procedures. The State is left to fund any excess costs under the current conditions of the waiver.

Nonetheless, there seems likely to be pressure on the Federal government to either contribute more money or to allow Oregon to significantly alter the list of covered services if the budget is understated as we believe. Oregon is experiencing a taxpayer "revolt," raising questions regarding the State's ability to support its share of the costs throughout the life of the demonstration. If Oregon is unable to pay for the services it has promised, HHS will again be confronted with difficult choices between increased Federal spending and further rationing with continuing political fallout.

V. Is the Demonstration Evaluable?

You have committed yourself to granting waivers only if they are truly evaluable, a view HHS strongly shares. In our view, important lessons can be learned from the experiment.

Massive state-wide demonstrations always pose some difficult evaluation questions for there is no way to create a reliable control group. Moreover, it is extremely difficult to judge the impacts of alternative service delivery mechanism and coverage arrangements on health outcomes. Nonetheless, the Oregon plan does offer the best opportunity yet to learn about the impact of comprehensive managed care and capitation plans, pay or play strategies for the uninsured, and the impact of alternative coverage rules. Oregon

seems committed to learning from the demonstrations and to providing the data necessary for an effective evaluation.

In our view, Oregon is likely to set off a rather massive set of investigations and evaluations funded both by government and by foundations. If Oregon is able to implement all the measures they propose both inside Medicaid and without, considerable insights about the strengths and limitations of a variety of strategies are likely to emerge.

VI. What is the Relationship Between the Oregon Proposal and National Health Care Reform?

Oregon and other states initiated health reform plans during a period when action at the Federal level did not seem likely. While details of your health reform plan are still being developed, there is reason to anticipate that components of Oregon's plan (and those of other States) will prove at variance or incompatible with some principles and specifications of your plan. Indeed, under some scenarios, the Oregon plan would never go into effect even if the waiver were approved. Moreover, other States may seek to follow Oregon's lead and seek similar waivers. It would appear odd to approve a series of plans which may prove at least partially incompatible with the ultimate health reform proposal.

Opponents of granting the waiver argue that many groups will see approval of the waiver as a signal of where the Administration is likely to move on health reform. Here again, the symbolism may be more important than substance. There is virtually no chance the health care reform task force will use a condition-pair ranking process. Still some services will be excluded from any basic benefit package under national health reform, thus confusion may arise in the press.

At the same time were Oregon's Medicaid reform demonstration to be approved, there would be a period of some months before it would become operational. That period would allow time to renegotiate aspects of the State's proposal that may need to conform with Federal requirements. As a general matter, Governor Roberts has indicated the State's willingness to resolve any remaining problems associated with the Oregon proposal.

HEALTH CARE FINANCING ADMINISTRATION SPECIAL TERMS AND CONDITIONS

NUMBER: 11-P-90160/0-01

TITLE: Oregon Reform Demonstration

AWARDEE: Oregon Department of Human Resources

1. Oregon will, within 60 days of this approval, rerank the condition/treatment pairs without relying on data which it collected with respect to whether treatment returned an individual to an asymptomatic state. Oregon may, at its discretion, add the criterion of "medical effectiveness" to those criteria which served as the bases for the Health Services Commission to adjust the placement of condition/treatment pairs. The medical effectiveness criterion may not take into account changes in individuals' functional limitations as a result of treatment. Pursuant to term and condition 5 below, the revised priority list must be submitted and approved by the Health Care Financing Administration (HCFA).

Oregon may conduct additional analyses of medical effectiveness and may revise its methodology for determining the placement of condition/treatment pairs to include data regarding medical effectiveness. Such a revised methodology shall be submitted to HCFA for comment before its use and any revised priority list of condition/treatment pairs must be approved by HCFA.

2. Oregon will revise the list of criteria used by the Health Services Commission to make hand adjustments to the list to exclude the factor relating to infertility services. If Oregon decides to cover infertility services under the demonstration (which it is not required to do), it will rank infertility services along with other services using content neutral factors that do not take disability into account.
3. Oregon will adopt policies that will ensure that before denying treatment for an unfunded condition for any individual, especially an individual with a disability or with a co-morbid condition, providers will be required to determine whether the individual has a funded condition or a condition comparable to a funded condition that would entitle the individual to treatment under the program. Oregon will provide through a telephone information line and/or through the applicable appeals process for expeditious resolution of questions raised by providers and beneficiaries in this regard.

4. The State shall define a minimum data set (which at least includes inpatient and physician services) and require all providers to submit these data. The State must perform periodic review, including validation studies, in order to ensure compliance. The State shall have provisions in its contract with health plans to provide the data and be authorized to impose financial penalties if accurate data are not submitted in a timely fashion. The State shall develop a workplan showing how collection of plan encounter data will be implemented and monitored; the workplan shall also identify State resources that will be assigned to this effort. The workplan shall describe how the State will use the encounter data to monitor implementation of the project and feed findings directly into program change on a timely basis. If the State fails to provide accurate and complete encounter data for any managed-care plan, it will be responsible for providing (at 100 percent State cost) to the designated HCFA evaluator data abstracted from medical records comparable to the data which would be available from encounter reporting requirements.
5. Any revision to the October 30, 1992 priority list of 688 condition/treatment pairs, including the cut-off line for covered services, shall be submitted to HCFA for review and approval.
6. The State shall provide quarterly expenditure reports (HCFA-64s) that provide expenditures on both the currently eligible and the newly eligible populations under the demonstration. HCFA will provide Federal Financial Participation only for annual expenditures that do not exceed pre-defined limits on the number of demonstration eligibles and costs incurred, following the attached budget guidelines. (NOTE: For reporting and budget neutrality purposes, currently eligible shall be defined as the AFDC populations, women who are pregnant (plus 60 days postpartum eligibility) with incomes to 133% of the Federal Poverty Level (FPL), children under age six with incomes to 133% of FPL, and children born after September 30, 1983 with incomes to 100% of FPL.)
7. The State shall submit a tentative timeline and detailed proposal on how mental health and chemical dependency service and the elderly and disabled will be incorporated into the demonstration. The tentative timeline should be submitted by October 1, 1993. The detailed proposal will be submitted as a later waiver amendment.
8. Prior to the start date of the demonstration, the State must submit evidence that health plan and physician capacity is adequate to serve the expected enrollment. This will include an discussion on how individuals who currently rely on FQHCs and RHCs will continue to have access to health care through the managed care delivery system.

9. The State must also fully meet the usual Medicaid disclosure requirements for contracting providers prior to the start date of the demonstration.
10. For those plans that do not meet section 1903(m) requirements, prior to award of contract to these plans, the State shall submit for HCFA approval a description of their delivery system, their financial viability, and their quality assurance system.
11. The State will submit to ORD and to the HCFA Regional Office copies of all financial audits of participating health plans and quality assessment reviews of these plans.
12. The State will submit quarterly progress reports, which are due 60 days after the end of each quarter. The first quarterly report will be due September 1, 1993. The reports should include a discussion of events occurring during the quarter that affect health care delivery, quality of care, access, financial results, benefit package, and other operational issues. The report should also include proposals for addressing any problems identified in the quarterly report. Utilization of health services should be reported on a quarterly and cumulative basis.
13. The State will submit a draft annual report, documenting accomplishments, project status, quantitative and case study findings, and policy and administrative difficulties by April 1, 1994. Within 30 days of receipt of comments from ORD, a final annual report will be submitted.
14. Within 30 days of the date of award, the State shall submit revised waiver cost estimates reflecting the start date of the demonstration. As a minimum, these tables should include revised estimates of per capita cost and number of eligibles for each year of the demonstration. These estimates must be consistent with the December 1992 revisions to the State's waiver cost estimate.
15. During the last 6 months of the demonstration, no enrollment of individuals who would not be eligible under current law will be permitted.
16. Oregon must implement procedures so that hospitals will be able to distinguish individuals who are eligible under current law from individuals who are only eligible because of the demonstration. The proposed procedure must be submitted to HCFA for approval within 60 days of the date of approval.
17. Oregon will implement modifications to the demonstration by submitting revisions to the original proposal. The State shall not submit amendments to the approved State plan relating to the new eligibles.

18. The State's new eligibility rules under the demonstration will not adversely affect Medicaid eligibility of persons who:
 - (a) have been determined to be eligible for Medicaid prior to the start date of the demonstration; and
 - (b) remain eligible as of the day immediately prior to the start date of the demonstration;

but only to the extent that these persons continue to meet the Medicaid eligibility criteria in effect on the day immediately prior to the start date of the demonstration.

19. A draft final report should be submitted to the HCFA project officer for comments. HCFA's comments should be taken into consideration by the awardee for incorporation into the final report. The awardee should use the HCFA, Office of Research and Demonstrations' Author's Guidelines: Grants and Contracts Final Reports (copy attached) in the preparation of the final report. The final report is due no later than 90 days after the termination of the project.
20. The HCFA project officer or designee will be available for technical consultation at the convenience of the awardee within 5 working days of telephone calls and within 10 working days on progress reports and other written documents submitted.
21. HCFA may suspend or terminate any grant in whole, or in part, at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the grant. HCFA will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination, together with the effective date.
22. The awardee shall assume responsibility for the accuracy and completeness of the information contained in all technical documents and reports submitted. The HCFA project officer shall not direct the interpretation of the data used in preparing these documents and reports.
23. The awardee shall develop and submit detailed plans to protect the confidentiality of all project-related information that identifies individuals. The plan must specify that such information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that informed written consent of the individual must be obtained for any disclosure.

24. The HCFA project officer shall be notified prior to formal presentation of any report or statistical or analytical material based on information obtained through this grant. Formal presentation includes papers, articles, professional publications, speeches, and testimony. In the course of this research, whenever the principal investigator determines that a significant new finding has been developed, he or she will immediately communicate it to the HCFA project officer before formal dissemination to the general public.

The final report of the project may not be released or published without permission from the HCFA project officer within the first 4 months following the receipt of the report by the HCFA project officer. The final report will contain a disclaimer that the opinions expressed are those of the awardee and do not necessarily reflect the opinions of HCFA.

25. Certain key personnel, as designated by the HCFA project officer, are considered to be essential to the work being performed on specific activities. Prior to altering the levels of effort of any of the key personnel among the various activities for this project, or to diverting those individuals to other projects outside of the scope of this award, the awardee shall notify the HCFA Grants Officer and the HCFA project officer reasonably in advance and shall submit justification (including name and resume of proposed substitution) in sufficient detail to permit evaluation of the impact on the project. No alteration or diversion of the levels of effort of the designated key personnel from the specified activities for this project shall be made by the awardee without the approval of the HCFA Grants Officer and the HCFA project officer.
26. At any phase of the project, including at the project's conclusion, the awardee, if so requested by the project officer, must submit to HCFA analytic data file(s), with appropriate documentation, representing the data developed/used in end-product analyses generated under the award. The analytic file(s) may include primary data collected, acquired, or generated under the award and/or data furnished by HCFA. The content, format, documentation, and schedule for production of the data file(s) will be agreed upon by the principal investigator and the HCFA project officer. The negotiated format(s) could include both file(s) that would be limited to HCFA internal use and file(s) that HCFA could make available to the general public.
27. At any phase of the project, including at the project's conclusion, the awardee, if so requested by the project officer, must deliver to HCFA any materials, systems, or other items developed, refined, or enhanced in the course of or under the award. The awardee agrees that HCFA shall have royalty-free, nonexclusive and irrevocable rights to reproduce, publish, or otherwise use and authorize others to use the items for Federal Government purposes.

28. HCFA reserves the right to withdraw waivers at any time if it determines that continuing the waivers would no longer be in the public interest. If a waiver is withdrawn, HCFA will be liable for only normal close-out costs.
29. In order to track expenditures under this demonstration, your State's Medicaid office must submit the following forms for the "Oregon Reform Demonstration" on a quarterly basis. Submit only one set of HCFA-64s for the project.

HCFA-64.9	HCFA-64.9a
HCFA-64.9p	HCFA-64.9o
HCFA-64.10	HCFA-64 Certification
HCFA-64.10p	HCFA-64 Summary

Report all administrative and service expenditures allowed under the waivers approved for this demonstration. Do not include expenditures related to research and evaluation activities. These activities are funded separately.

Monitoring Budget Neutrality for the Oregon Reform Demonstration

Oregon will be at risk for the per capita costs provided in the proposal for both current and new eligibles, but not at risk for the number of current eligibles. By providing Federal Financial participation (FFP) for all current eligibles, Oregon will not be at risk for changing economic conditions. However, by placing Oregon at risk for the per capita costs provided in the proposal for both current and new eligibles, HCFA assures that the demonstration expenditures will reflect Oregon's estimates of savings from managed care and the priority list. Oregon will be at partial risk for the number of new eligibles by using the State's estimate of the ratio of new eligibles to old eligibles to limit the number of new eligibles for which FFP will be provided.

LIMITS ON FEDERAL EXPENDITURES

- o Eligibility Groups Subject to the Limit - The Oregon per capita cost estimate for the current eligible population (as defined in term and condition number 6, above) and newly eligible populations will be the basis for establishing the limits on FFP. The costs of populations not included in the demonstration, such as the Supplemental Security Income (SSI) eligibles, will not be included in the limits.
- o Limit on Demonstration Expenditures - The annual limits are defined as follows:
 - a. Current Eligibles: Actual number of current eligibles times the Oregon estimate of per capita cost for current eligibles; and
 - b. New Eligibles: Actual number of current eligibles times the Oregon ratio of new eligibles to current eligibles times the Oregon estimate of per capita cost for new eligibles.

MONITORING SYSTEM

The form HCFA 64, Quarterly Medicaid Statement of Expenditure for the Medical Assistance Program, will be used for monitoring Oregon expenditures under the demonstration.

Oregon will continue to submit a HCFA 64 for the entire Medicaid program and additional HCFA 64s for the AFDC population. The additional HCFA 64s will provide eligibility counts and expenditure data on:

- o All current AFDC (including PLM children and adults) and new eligibles;
- o All current AFDC eligibles (including PLM children and adults); and
- o All new eligibles.

These HCFA 64s will be used to monitor Oregon expenditures. FFP will be provided to the State for its actual expenditures, but limited to the caps.

DRAFT

Talking Points for Oregon Waiver

*Oregon waiver is an experiment by one state that is attempting to grapple with the health care crisis.

*Oregon officials are to be commended for their hard work and efforts to be innovative in dealing with a very complex problem.

*Oregon's plan seeks to control costs through managed care.

*Their plan provides universal coverage for all Oregon residents--no one now covered will be excluded.

*Oregon officials applied a thoughtful process to developing a plan that provides a reasonable level of coverage to its citizens.

*The level of coverage provided by the Oregon plan is stable. It cannot be varied without prior approval from the U.S. Department of Health and Human Services.

*The Oregon plan is budget neutral for American taxpayers. Oregon has agreed to bear any additional costs if it fails to produce the savings officials envision.

*This waiver should not be interpreted as signalling where the administration plans to go on our health care reform proposal.

*Oregon officials acknowledge that their plan may have to be modified to make it consistent with our national health care plan which will be presented in the next few months.

*Oregon is a small, largely rural state with a modest population. What works for Oregon may not necessarily work as the national model of health care reform.

*What we envision is a much broader, more comprehensive plan for America that:

*Provides universal coverage while controlling costs and preserving quality of care.

*Empowers consumers by uniting them in large purchasing co-ops that can bargain for better deals.

*Eliminates inefficiencies and waste that drive up costs in the system.

*Addresses the issues of drug price reform, defensive medicine and malpractice suits.

*That embraces new technological advances in medicine.

DRAFT

Q. and A. on Oregon Waiver Decision

1) Why did administration approve this waiver if it is inconsistent with your vision of Health Care Reform?

A. This waiver is being granted to give one state the flexibility to experiment with what it hopes will be a solution to the health care crisis that is facing the nation. It is one solution but not the only solution and officials acknowledge that their plan may have to be modified.

2. How can you approve a plan that sanctions rationing services?

A. This plan does limit benefits but every state limits benefits in some form or another. What Oregon officials did was to thoughtfully develop a plan that provides a reasonable level of coverage for all its citizens based on a standard of medical effectiveness and common sense.

3. Does this plan now comply with the provisions of the Americans with Disability Act?

A. Oregon officials have addressed our concerns with the ADA by changing the procedures by which medical services are ranked and changing the criteria pertaining to quality of life and perceived efficacy of treatment as it applies to persons with disabilities.

4. Were the changes made as a direct result of pressure from the disabled community?

A. We met with the disabled community and heard their concerns. We also consulted with legislative leaders on Capitol Hill. Oregon officials were willing to work with us to address these issues because the ADA is the law of the land.

5. Whose decision is this? Is this waiver being granted just because President Clinton promised to do it during the campaign?

A. As Secretary of Health and Human Services, this is my decision made after much consultation with President and my staff. It is being granted because it is the right thing to do and will give the State of Oregon the flexibility it needs to grapple with the health care crisis until a comprehensive national plan is put into place.

6. Despite your assertions, many will see this as a signal of what's likely to be included in the Clinton Health Care Proposal.

A. Let me stress that Oregon is a small state that is largely rural. What may work to cure Oregon's problems with health care may not work for the nation. We envision a broader version of health care reform that controls costs, preserves the quality of care and provides universal coverage for all Americans. Our plan will do that but it must also address such issues as drug price and medical malpractice reform, squeezing the waste and inefficiencies out of the system, and greater access to technological advances.

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7. Won't this make passage of your plan harder especially since Health Care Reform won't be in the budget reconciliation package?

A. We believe that Congress is sophisticated enough to understand that the Oregon plan is not a blueprint for national health care reform. It recognizes the role states must plan in developing their own solutions and the fact that a national plan must be flexible enough to work for Oregon or New York, or Texas or Illinois.

8. What about the people who were going to immediately lose coverage if this waiver was granted--what happens to them?

A. Oregon officials have agreed to grandfather in the several hundred people who may have been targeted to lose coverage under their original proposal. With regard to the disabled and the chemically dependent, they will continue to receive all the services for which they are currently eligible. This will continue until, with HHS approval, Oregon expands its program to include the disabled, the chemically dependent and the elderly.

9. Oregon has drawn a line and decided that all the services that fall beneath the line should not be covered. What's to stop them from moving the line up at some later point if they discover the cost of this universal coverage is too high?

A. Under terms of our agreement, the list of services covered under the terms of the waiver cannot be altered without prior approval from the Department of Health and Human Services. We have also made clear to Oregon officials that the burden is theirs to bear if this experiment does not yield the cost savings they envision. The American taxpayer is protected.

POLITICAL POSITIONS ON THE OREGON WAIVER

PRIOR STATEMENTS ON THE OREGON DEMONSTRATION PROPOSAL BY THE PRESIDENT

As reported by the Associated Press on May 13, 1992,

"The Arkansas governor said that if he were president he would give the state [of Oregon] the federal Medicaid waiver it needs for its health care plan, which would cover uninsured working poor people while rationing some costly medical treatments. Clinton said such rationing would not be necessary if a national health care system was implemented."

During the Richmond, Virginia, Presidential campaign debate, the President articulated clear support for the Oregon Medicaid demonstration proposal.

In recent discussions with the National Governors Association, but without direct comment on Oregon's proposal, the President indicated support for State flexibility in addressing Medicaid costs and funding.

PRIOR STATEMENT ON THE OREGON DEMONSTRATION PROPOSAL BY THE VICE PRESIDENT

Then-Senator Gore, in an April 10, 1992 press release (attached),

"urged President George Bush and Secretary Louis Sullivan ...to deny the [Oregon] waiver....

"While the nation debates how we can together craft a health care system that will cover everyone, Oregon proposes a plan that has poor people taking from other poor people, creates a tattered system, and leaves poor women and children at risk," said Gore. "The plan is seductive to policy makers but dangerous to the people who really need help."

[This statement preceded the second application and came before an agreement was reached that prevents Oregon from altering their package of benefits without HHS approval.]

CONGRESSIONAL POLITICAL IMPLICATIONS

Oregon delegation - The entire delegation has been generally supportive of the Oregon waiver.

Rep. Ron Wyden (D-OR) has been the most vocal supporter of the Oregon waiver in the House. He also has pressured this Administration to treat him as the lead Congressional proponent of the waiver, ahead of the Senate Republican members of the Oregon delegation.

Sen. Bob Packwood (R-OR) has been the strongest supporter of the Oregon waiver in the Senate and was largely responsible for the inclusion of language favorable to Oregon's plan in the urban aid legislation (H.R. 11), vetoed last year.

Sen. Mark Hatfield (R-OR) also has supported the waiver. Though he has not been as vocal as Packwood, he made a lengthy statement favoring the waiver during the NIH bill consideration. Hatfield withdrew a proposed amendment to the NIH bill on the waiver issue after receiving a letter from Secretary Shalala promising a decision by March 19.

Rep. Mike Kopetski (D-OR), though generally supportive of the waiver, has expressed concern for the impact of the prioritized list on mental health services. Currently these services and their users are not part of the prioritization process or the initial demonstration; they are covered under the old Medicaid rules. HCFA terms and conditions would require any change in Oregon's prioritized list (including the ranking of mental health services when these are added in to the demonstration) to be reviewed by the Department.

Rep. Peter DeFazio (D-OR), Rep. Bob Smith (R-OR), and Rep. Elizabeth Furze (D-OR), have all been generally supportive of the waiver.

Other Key Congressional Interests

Rep. Waxman had strenuously opposed the Oregon waiver, objecting to limiting services for the Medicaid population, resorting to rationing to reduce costs, discriminating against the disabled, and other grounds. However, last week Rep. Waxman indicated that he will not take legislative action to overturn presidential approval of the Oregon plan if two specific conditions, agreed to by Governor Roberts and incorporated into the proposed terms and conditions, are imposed and enforced.

- 1) For the period 1993-1995, Oregon will maintain the list of covered condition-treatment pairs for all eligibles at the level submitted to HHS; and
- 2) For the entire demonstration period, if the State is forced by budget pressures to reduce covered benefits in subsequent years, it will obtain prior approval from the Secretary before any adjustments are made.

Rep. Dingell, who once opposed it, has supported the Oregon waiver in recent months.

ADA sponsors and supporters, including Sen. Harkin (D-Iowa), Sen. Kennedy (D-MA), Rep. Hoyer (D-MD), and Rep. Owens (D-NY) have strong concerns about the Oregon waiver. They regard it as crucial that the demonstration not violate the ADA. At the same time they strongly prefer that the ADA not be used again as the basis for denial, fearing such an outcome would hurt the ADA. If ADA issues are resolved satisfactorily, they are unlikely to oppose the waiver strenuously, especially given Waxman's recent statement.

Sen. Riegle (D-MI) is chairman of the Senate Finance Subcommittee with jurisdiction over Medicaid. However, he has not taken a position in favor or in opposition to the waiver.

STATE AND LOCAL POLITICAL IMPLICATIONS

Oregon State Officials - Governor Barbara Roberts and the state legislative leadership vigorously support the waiver application. Oregon has invested a tremendous amount of time and energy in this proposal, and Presidential disapproval will unleash a vocal protest from all Oregon officials. The Secretary and key HHS personnel have had several with the Governor and numerous discussions with her staff.

The National Governors Association - The National Governors Association has endorsed the Oregon waiver, and disapproval of the waiver would send a negative signal to that crucial organization and to all governors regarding the Administration's flexibility towards Medicaid waivers.

The National Conference of State Legislatures - NCSL, while not taking a position on the merits of the Oregon plan, supports the waiver on the grounds that the Administration should not reject a reasonable waiver passed by a state legislature. NCSL will certainly join the chorus with NGA on this issue.

Cities and Counties - National organizations representing cities and counties apparently have not taken a position on the Oregon waiver, although they generally support increased federal flexibility in program administration.

INTEREST GROUP POLITICAL IMPLICATIONS

Disability Organizations - National Disability Rights Organizations have voiced strong opposition to the waiver. They are strongly opposed to any waiver which would violate the ADA, and they strongly dislike the signals the waiver would send. Nonetheless, if ADA issues have been satisfactorily resolved, national disability organizations seem unlikely to sue but there remains some chance of litigation.

Other Advocacy Groups - A number of advocacy groups, including the Children's Defense Fund, oppose the Oregon waiver because they believe it rations health care services and sets the precedent that a state may explicitly provide poor persons with second-class care. Nonetheless, if terms and conditions which the Department would impose and the State has accepted to maintain the cut-off line are understood, these groups seem unlikely to litigate should the waiver be granted.

Congressional Contacts, Oregon Waiver Decision

Senator Bob Packwood
Senator Mark Hatfield
Senator Pat Moynihan
Senator Ted Kennedy
Senator Tom Harkin
Senator Don Riegle

Congressman Ron Wyden
Congressman Henry Waxman
Congressman John Dingell

Congressman Mike Kopetski
Congressman Peter DeFazio
Congressman Bob Smith
Congresswoman Elizabeth Furse

Governor Barbara Roberts

(staff contacts)

Donald Shriber (Energy and Commerce Committee)
Andy Schneider (Energy and Commerce Health Subcommittee)
Howard Cohen (Energy and Commerce Minority)
David Schulke (Office of Rep. Wyden)
Paul Offner (Finance Committee)
Ed Mihalski (Finance Committee minority)
David Nexon (Labor and Human Resources Committee)
Peter Reineke (Office of Sen. Harkin)