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## Second Session of the 94th Congress (January 19-October 1, 1976): Activities Relating to Foreign Relations and International Law

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## **The Second Session of the 94th Congress (January 19—October 1, 1976): Activities Relating to Foreign Relations and International Law**

Although the 94th Congress was one of the most active in the history of the Committee on International Relations of the House of Representatives, most of the important and unusual issues that the committee dealt with arose in the first session.

Similarly, in the second session, there were fewer measures to come before the Senate Foreign Relations Committee involving critical issues, such as the constitutional distribution of power between the President and the Congress. At the beginning of the 93rd Congress, the Senate reacted decisively against the increasing power of the executive branch. Measures were enacted reasserting the constitutional authority of the Congress over federal expenditures. A budget reform and impoundment control act was enacted. The right of the Congress to make priority judgments about federal spending was an issue that again emerged in the second session during the debates on foreign aid and arms sales measures.

In his State of the Union Message on January 19, President Ford described United States foreign policy as "sound and strong." In obliquely referring to his differences with the Congress in 1975 over conducting foreign policy, the President pointed out that the framers of the Constitution knew that the responsibility for "strong control and direction that allowed flexibility of action in foreign affairs clearly rests with the President." In sending his fiscal year 1977 budget message to the Congress, President Ford rejected an election year "policy of the quick fix." Possibly these words of caution had an effect beyond the area of appropriations.

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No measure comparable in constitutional importance to the war powers resolution, enacted by the 93rd Congress, was debated in the second session of the 94th Congress. Quantitatively, of matters of an international nature, foreign aid, military assistance, military sales and security-related economic assistance occupied first place. Scarcely more than half a dozen measures upon which the second session of the 94th Congress completed action merit notice. These involved establishment of a 200-mile fishing zone, barring aid to factions fighting in the Angola civil war, establishment of congressional control over arms sales to foreign nations, foreign military and economic aid, a treaty of Friendship and Cooperation with Spain, (the military bases agreement), a treaty with Switzerland for administrative and judicial assistance in criminal matters, and the establishment in the Senate of a Permanent Committee on Intelligence Oversight.

### **200-Mile Fishing Zone**

After seven days of debate the Senate, on January 29, passed H.R. 200 to extend to 200 miles the existing 12-mile limit of the exclusive United States fishing zone. Sponsored by Senator Warren G. Magnuson (D. Wash.) and considered by three Senate panels, the bill was drafted to protect the United States fishing industry, hard hit in recent years by massive foreign factory fishing close off United States shores. The legislation was opposed by the Departments of State and Defense on the ground that fishing limits should be set by international agreement, not unilaterally. Segments of the fishing industry, such as tuna and shrimp fishermen, were opposed because of fear of retaliation by other countries in whose near-territorial waters they often fish.

House and Senate conferees reached agreement on H.R. 200 on March 17. President Ford, on April 13, signed the bill into law as Pub. L. 94-265, saying that he was doing so because of the slow pace of negotiations in the United Nations for a Law of the Sea convention dealing with international fisheries. The bill provided that the expanded zone would terminate if the Congress approved a Law of the Sea Convention under negotiation in the United Nations.

Effective March 1, 1977, the act establishes a fisheries conservation and management zone expanding 200 nautical miles from the United States coast. Exclusive jurisdiction is also established over all fish except highly migratory species and beyond this zone over anadromous species, such as salmon that spawn in United States rivers and streams and migrate to ocean waters.

The act establishes eight regional councils to regulate catches by United States fishermen of stocks in low supply, foreign fishing having endangered the survival of fourteen species. In the blunt words of Representative Robert E. Bauman (R. Md.): "The legislation serves notice on foreign nations that America will no longer tolerate the continued depletion of our fisheries and that we shall act forcefully in the best interests of our citizens."

## **The Angola Civil War**

The House on January 27 approved a Senate amendment to the fiscal 1976 deficiency appropriation bill (H.R. 9861) barring further United States aid to any of the factions fighting in the Angola civil war. The amendment had been offered by Senator John V. Tunney (D. Calif.). The administration acknowledged that the amendment would effectively cut off all United States aid to anti-Soviet factions participating in the war. In signing the bill into law on February 9, (Pub. L. 94-212), President Ford said that Congress has stated to the world that it will ignore a clear act of Soviet-Cuban expansion by brute force thousands of miles from either country. The consequences of the action, he added, can only result in serious harm to the interests of the United States.

## **Foreign Sales of Arms and Aircraft**

The Foreign Military Assistance and Arms Export Control Authorization bill (S. 2662) contained provisions that would revise United States arm sales and military policies by giving Congress a veto over most Pentagon and commercial sales of weapons and aircraft to other countries. When, on February 4, the bill reached the floor, its opponents attempted to have it studied by the Armed Services Committee. The Pentagon contended that S. 2662 would cut United States export of aircraft and weapons by 50 to 70 percent, that a high level of exports is required to maintain a healthy aerospace industry, and that the cost of United States defense purchases would rise if production levels were cut. The floor manager of the bill, Senator Hubert H. Humphrey (D. Minn.), charged that "More incredible propaganda has been given to the American people in connection with this bill than I have ever witnessed as a member of this body." Senator Humphrey denied the allegations of the Pentagon, saying that the sole purpose of the bill was to give Congress a role in arms sales decisions. Overall foreign sales reached a total of \$8.3 billion in fiscal 1976, making the United States the leading arms merchant in the world.

Congress on April 28 sent the bill to President Ford, who, on May 7, vetoed it, asserting that the measure would make Congress "a virtual co-administrator" of United States foreign policy.

No attempt to override the veto was made, but Congress subsequently passed another version (H.R. 13680) which became law on June 25 (Pub. L. 94-329). In this bill Congress excluded commercial sales from the congressional veto provision (through passage of a concurrent resolution of disapproval) and dropped a \$9 billion ceiling. The new measure, however, retained some key features of S. 2662: it prohibited private companies from selling major equipment valued at \$25 million or more directly to foreign governments, and it gave Congress authority to reject major government sales amounting to \$7 million or more. For the first time, the new bill authorized legislative review (but no veto) of commercial sales.

### **Foreign Military and Economic Aid**

The House on June 29 approved H.R. 14260 appropriating \$4.8 billion for military and economic aid programs for fiscal year 1977. From the Committee report (H.R. 94-1228) it appeared that 45 percent of the funds were allocated to four mideastern nations: Israel, Egypt, Jordan and Syria; further, that it was anticipated that the funds would go to ninety-seven countries and territories for various foreign aid programs; forty-five countries would receive military assistance or training; eight countries would receive security supporting assistance; sixty-seven would receive economic assistance; seventy-seven would receive Pub. L. 480 (agricultural) assistance; sixty-six would receive Peace Corps assistance; and many would receive more than one type of assistance.

The Committee expressed concern "over the tendency to direct an increasing amount of United States foreign aid assistance through multilateral institutions where Congress does not have the same degree of control that it has over bilateral assistance programs."

In connection with House approval of another foreign military assistance bill (H.R. 11963), Representative Pierre S. (Pete) du Pont, (R. Del.) remarked: "We are creating international instability by supplying arms around the world . . . and I think we are going to pay an awful price for it."

### **Treaty of Friendship and Cooperation with Spain**

*(Spanish Bases Treaty) (Ex. E. 94th—2d)*

The death of Franco and the accession of King Juan Carlos took most of the controversy out of the renewal of the agreement with Spain for the continued use of four naval and air bases. After the Senate prevailed in its insistence that the pact be submitted to the Senate in the form of a treaty, rather than be executed by the president alone as an executive agreement, the only remaining difficulty was with the unorthodox appropriation procedures contemplated by the pact.

The draft treaty signed by Secretary Kissinger provided that the government of the United States would furnish \$1.2 billion in loans and aid for military equipment and scientific, cultural and educational programs, including defense articles on a grant basis of \$75,000,000 . . . and contributions to modernizing existing aircraft controls and warning network . . . in an amount not exceeding \$50,000,000 over a period of five years. In return, Spain consented to the continued use of the four bases.

The agreement establishes a United States-Spanish Council to oversee cooperation between the two countries on military, economic and technological matters.

Senate critics objected to the creation of a five-year authorization for the special aid program which would prevent the Congress from reexamining the appropriations annually. Chairman John Sparkman (D. Ala.) asserted that the

figures would have to come out of the treaty and be handled in separate authorization and appropriation bills. Chairman Thomas E. Morgan (D. Pa.) of the International Relations Committee of the House, on March 24, wrote to Chairman Sparkman recommending that a reservation be added retaining for the House "its constitutional and historic prerogative of legislating authorization of appropriations to fulfill security treaty commitments."

Senator Stuart Symington (D. Mo.) probably voiced the sentiments of many when he said: "Perhaps Spain should be paying the United States because the bases are more important to her than to us." A resolution of advice and consent to ratification was voted by the Senate on June 21.

A related authorization bill (S. 35571) cleared Congress on the last day of the session, October 1.

### **Treaty with Switzerland for Judicial Assistance in Criminal Matters**

*(Ex. F. 94th—2d)*

Almost forty years after the Harvard Research in International Law published its draft Convention on International Judicial Assistance, and the American Bar Association first urged the government to negotiate treaties of transnational procedural assistance, the United States has entered into such a pact with that most important of foreign jurisdictions, Switzerland. It covers only criminal matters.

Negotiated over a number of years by officials of the Departments of Justice and Treasury and the Security and Exchange Commission, the treaty is the first bilateral procedural agreement of this character ever entered into by the United States. It provides broad assistance in connection with investigations and court proceedings involving any of 35 specified offenses, including locating witnesses, obtaining statements and testimony, production and authentication of business records, service of judicial and administrative documents and special assistance where organized crime is involved.

The treaty does not apply to the extradition or arrest of accused or convicted persons, execution of criminal judgments, political offenses, violation of laws relating to military, tax or customs laws, and securities laws. It also provides that tax fraud, which is not a crime in Switzerland, is governed exclusively by the Convention of May 24, 1954, and is excluded except in certain organized crime situations.

The Senate's approval of a resolution of ratification was given on June 21.

### **Intelligence Oversight**

At the beginning of the first session of the 94th Congress, the Senate established a Select Committee to investigate and study the intelligence activities of

the CIA, the FBI and other intelligence agencies to determine to what extent, if any, illegal, improper, or unethical activities were being pursued (S. Res. 21, January 27, 1975).

The Senate Committee on Government Operations, chaired by Senator Abraham Ribicoff (D. Conn.), began eight days of hearings at the beginning of the second session on a proposal to create a committee on intelligence oversight. Among those who testified in favor of a new panel were Majority Leader Senator Mike Mansfield (D. Mont.) and Senator Frank Church (D. Id.), Chairman of the Select Committee. After fifteen months of investigations and hearings, the Select Committee, on April 26, recommended that Congress enact new charters for the CIA and other intelligence agencies to prevent "abuses that have occurred in the past from occurring again." The 651-page report was signed by nine of the eleven members.

By S. Res. 400, the Senate, on May 19, established a permanent Select Committee on Intelligence Activities to make continuing studies. The Committee is provided with exclusive legislative authority over the CIA, and shares budgetary and oversight authority with standing committees formerly responsible: the Armed Services Committee for the Defense Intelligence Agency, National Security Agency, and the military intelligence units, the Foreign Relations Committee for the State Department intelligence activities, and the Judiciary Committee for the FBI.

The House failed to establish a similar panel.

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Among the matters under consideration by the second session but on which the Congress took no final action were a proposal to counteract the Arab boycott of United States firms doing business with Israel, a study of bribes and questionable political payments overseas by United States corporations, the problem of aliens illegally present in and entering the United States, a proposal (S. 3084) to liberalize export controls by extending and amending the Export Administration Act of 1969, nuclear export control and implementation of the new defense pact with Turkey which had been signed on March 26.

In addition to the Treaty of Friendship and Cooperation with Spain and the Treaty with Switzerland for Judicial Assistance in Criminal Matters, the Senate consented to the ratification of the following fifteen treaties:

- Ex. 1, 94th—1st. Agreement on Conservation of Polar Bears (Sept. 15).
- Ex. K, 94th—1st. Convention for Conservation of Antarctic Seals (Sept. 15).
- Ex. G, 94th—2d. Convention on Registration of Objects Launched Into Outer Space (June 21).
- Ex. X, 93rd—1st. Customs Convention on Containers (Sept. 15).
- Ex. B, 94th—2d. Extradition Treaty with Spain (June 21).
- Ex. A, 94th—2d. Extradition Treaty with the United Kingdom and Northern Ireland (June 21).

- Ex. D, 81st—1st. Inter-American Women's Rights Convention (January 22).
- Ex. H, 94th—2d. International Coffee Agreement (August 23).
- Ex. J, 94th—2d. International Tin Agreement (September 15).
- Ex. I, 94th—2d. International Wheat Agreement (August 23).
- Ex. M, 94th—2d. Protocol on Convention on Conservation of North Pacific Fur Seals (September 15).
- Ex. G, 94th—1st. Revision of Radio Regulations (January 22).
- Ex. J, 93rd—2d. Telecommunications Convention (January 22).
- Ex. E, 93rd—2d. Telegraph and Telephone Regulations (January 22).
- Ex. J, 88th—1st. Women's Political Rights Convention (January 22).

