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## Congressional Affairs

### Legislative Activities Relating to International Law and Relations— 89th Congress

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During each session, the Congress devotes a considerable portion of its time and attention to international law, relations, and organization, usually in the form of legislation, treaties, special studies, and reports.<sup>1</sup> Since each Congress meets for two-year periods, and much important legislation is not acted upon finally until the second session of a Congress, this initial survey will deal only with legislation and treaties of the 89th Congress, covering calendar

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<sup>1</sup> An excellent symposium on Congress and Foreign Relations is contained in *The Annals of the American Academy of Political and Social Science*, Vol. 289 (Sept. 1953).

The respective Calendars of the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, for the 89th Congress, contain the legislative histories of all bills processed, as well as a list of hearings, special studies, reports, and committee prints. The Senate Committee Calendar also records all of the treaties pending or processed and all of the nominations. A summary of the activities of the Senate Committee on Foreign Relations in the 89th Congress will be found in *Cong. Rec.*, Oct. 22, 1966, pp. 27646-48. Included are all matters which received favorable action by the Senate, as well as those upon which the committee acted, but the Senate took no final action.

A detailed review of the activities of the House Committee on Foreign Affairs is contained in *Survey of Activities of the Committee on Foreign Affairs, House of Representatives (Jan. 4, 1965–Oct. 22, 1966)*, Committee Print, 1966. Complete legislative histories, including Presidential Messages, committee action and floor debate, relative to foreign relations activities are found in *Congressional Quarterly Almanac*, Vol. XXI, pp. 422, ff.; Vol. XXII, pp. 397, ff. Legislative activities relative to foreign relations which were processed by other committees will be found in appropriate sections of these volumes.

years 1965 and 1966. Special studies, reports, and related activities will be dealt with in subsequent issues.

During the 89th Congress, 43 public and 3 private laws dealing with various aspects of foreign relations were enacted; 7 concurrent resolutions were approved; and 14 simple resolutions were adopted, 9 by the Senate and 5 by the House of Representatives. In addition, the Senate gave its advice and consent to 15 treaties and 2,759 nominations, of which 181 were major appointments and the balance were foreign service appointments or promotions.

In general, the bulk of the legislative activities continued or extended existing programs and relationships and authorized appropriations for such activities.<sup>2</sup> Additional areas included authorizations for (1) increased contributions to international organizations and related bodies;<sup>3</sup> (2) United States agreement to charter amend-

<sup>2</sup> P.L. 89-171 (Sept. 6, 1965), Foreign Assistance Act of 1965; P.L. 89-583 (Sept. 19, 1966), Foreign Assistance Act of 1966; P.L. 89-22 (May 21, 1965) amended the Foreign Service Buildings Act of 1926, as amended, to authorize \$1 million for the construction of a new building to replace the United States chancery in Saigon, Vietnam, which was damaged by a bomb explosion; P.L. 89-27 (May 27, 1965) amended the Arms Control and Disarmament Act, as amended, to authorize an appropriation of \$30 million for three fiscal years, 1966 through 1968, to finance the continued operation of the Agency. The amounts actually appropriated were \$10 million for fiscal year 1966 (P.L. 89-164) and \$9 million for fiscal year 1967 (P.L. 89-797); P.L. 89-181 (Sept. 11, 1965) increased the authorized annual appropriation for the Gorgas Memorial Laboratory from \$250,000 to an amount not in excess of \$500,000; P.L. 89-308 (Oct. 31, 1965) provided for adjustments in annuities under the Foreign Service retirement and disability system; P.L. 89-371 (Mar. 18, 1966) authorized a supplemental appropriation of \$415 million for support of United States operations in Southeast Asia and elsewhere, of which \$275 million was for the Vietnam program, with a limitation that an amount not to exceed \$1,400,000 may be used for administrative expenses incurred in connection with programs in the Republic of Vietnam; P.L. 89-134 (Aug. 24, 1965) authorized an appropriation of \$115 million to finance the operation of the Peace Corps during fiscal year ending June 30, 1966. P.L. 89-572 (Sept. 13, 1966) authorized an appropriation of \$110 million to finance the operation of the Peace Corps during fiscal year ending June 30, 1967; P.L. 89-636 (Oct. 10, 1966), authorized appropriations of \$55,160,000 for the purchase, construction, major alteration, and long-term leasing of State Department buildings overseas, covering acquisition in fiscal years 1967 and 1968 and maintenance and repairs in fiscal years 1968 and 1969.

<sup>3</sup> P.L. 89-6 (March 24, 1965) authorized a \$750 million increase in the United States contribution to the Fund for Special Operations of the Inter-American Development Bank; P.L. 89-31 (June 2, 1965) authorized an increase of \$1,035 million in the United States contribution to the International Monetary Fund, raising the total United States contribution to \$5,160 million; P.L. 89-91 (July 27, 1965) authorized an increase in annual United States con-

ments or articles of agreement in certain multilateral organizations, and participation in and contributions to new bodies;<sup>4</sup> (3) facilitating the processing, and adjudicating the validity, of claims of United States nationals against Cuba and Communist China; a contribution to certain inhabitants of the Ryukyu Islands for death, injury, etc.; the acceptance of a debt settlement with Greece, and the use of payments resulting therefrom for a cultural and educational exchange program; and emergency aid to India;<sup>5</sup> (4) the implementation by the United States of certain existing international commitments;<sup>6</sup> (5) invitations by the United States to other nations to participate in international conferences, and the enabling of United States participation in and contribution to trade fairs and trade centers;<sup>7</sup> (6) amendments to existing law to strengthen internal

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tributions to the South Pacific Commission in an amount not to exceed \$200,000 per fiscal year; P.L. 89-104 (Aug. 3, 1965) authorized an increase in the annual share of the United States contribution to the International Council of Scientific Unions and Associated Unions to an amount not to exceed \$100,000; P.L. 89-181 (Sept. 11, 1965) authorized an increase in United States annual contributions to the Gorgas Memorial Laboratory to an amount not to exceed \$500,000; P.L. 89-230 (Oct. 1, 1965) authorized an annual contribution of \$50,000 to the International Committee of the Red Cross; P.L. 89-646 (Oct. 13, 1966) increased the ceiling on United States annual contributions to the Pan American Institute of Geography and History to \$90,300, commencing in fiscal year 1967, based upon an assessment scale of ability to pay rather than population.

<sup>4</sup> P.L. 89-126 (Aug. 14, 1965) authorized the United States to agree to amendments to the articles of agreement of the International Bank for Reconstruction and Development and the International Finance Corporation; P.L. 89-369 (March 16, 1966) provided for United States participation in the Asian Development Bank and authorized a \$200 million appropriation for share purchase, without fiscal year limitation.

<sup>5</sup> P.L. 89-262 (Oct. 19, 1965) claims by United States nationals against the Cuban Government, arising after January 1, 1959; P.L. 89-780 (Nov. 6, 1966) claims by United States nationals against Communist China. P.L. 89-296 (Oct. 27, 1965) authorized United States contributions to compensate citizens of the Ryukyu Islands for damages by United States Armed Forces between 1945 and 1952; P.L. 89-766 (Nov. 5, 1966) related to indebtedness of Greece to the United States; P.L. 89-406 (April 19, 1966) provided for emergency aid to India.

<sup>6</sup> P.L. 89-23 (May 22, 1965) enabled the United States to carry out its obligations under the International Coffee Agreement; P.L. 89-283 (Oct. 21, 1965) implemented the United States-Canadian Automobile Agreement; P.L. 89-532 (Aug. 11, 1966) implemented the Convention for the Settlement of Investment Disputes; P.L. 89-643 (Oct. 8, 1966) implemented the Beirut Agreement; P.L. 89-651 (Oct. 14, 1966) implemented the Florence Agreement.

<sup>7</sup> P.L. 89-284 (Oct. 22, 1965) provided for United States participation in HemisFair 1968 and authorized the President to invite the several States of

organization and external controls with respect to certain aspects of United States foreign relations, and to facilitate Cuban refugee immigration;<sup>8</sup> (7) certain bilateral relationships with neighboring countries;<sup>9</sup> and (8) the establishment of uniform authority to enable United States Government employees to accept gifts and awards from foreign governments.<sup>10</sup>

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the Union and foreign governments to participate in the activities; P.L. 89-685 (Oct. 15, 1966) authorized an appropriation of not to exceed \$7,500,000 to enable United States participation in HemisFair 1968; P.L. 89-355 (Feb. 19, 1966) provided for United States participation in Interama and authorized the President to invite the several States and foreign governments to participate; P.L. 89-357 (March 1, 1966) authorized the appropriation of \$500,000 to the Secretary of State to defray the expenses incident to holding the Twenty-second World Health Assembly in Boston, Mass., in 1969, so as to enable the United States to invite the World Health Organization to hold the Assembly in the United States and pay for the additional cost incident thereto; P.L. 89-799 (Nov. 8, 1966) authorized the United States to organize and hold an International Conference on Water for Peace in Washington, D.C., in May 1967, and authorized an appropriation not to exceed \$900,000 for this purpose.

<sup>8</sup> P.L. 89-206 (Sept. 28, 1965) amended the United Nations Participation Act to provide increased authority to the principal United States representative to delegate the performance of some of his functions to his colleagues; P.L. 89-3 (March 3, 1965) related to relaxation of the gold cover; P.L. 89-62 (June 30, 1965) made permanent the temporary \$100 duty-free allowance on the value of foreign goods brought into the United States by United States citizens; P.L. 89-79 (July 21, 1965) continued for three years the authority of domestic banks to pay higher interest rates on deposits of foreign governments; P.L. 89-175 (Sept. 9, 1965) provided antitrust law exemptions to safeguard the United States balance of payments position; P.L. 89-63 (June 30, 1966) extended until June 30, 1969, the Export Control Act of 1949; P.L. 243 (Oct. 9, 1965) extended and strengthened the Interest Equalization Tax Act of 1964; P.L. 89-732 (Nov. 2, 1966) facilitated Cuban refugee citizenship. P.L. 89-486 (July 4, 1966) broadened the application of the Foreign Agents Registration Act of 1938, as amended.

<sup>9</sup> P.L. 89-584 (Sept. 19, 1966) authorized the Secretary of State to conclude an agreement with the Government of Mexico for construction, operation, and maintenance of a drainage conveyance canal through Mexican territory under the supervision of the International Boundary and Water Commission, the United States and Mexico, to assist in the solution of the lower Rio Grande salinity problem; P.L. 89-640 (Oct. 10, 1966) authorized an agreement between the United States and Mexico for joint construction of an international flood control project for the Tiajuana River in accordance with the Treaty of Feb. 3, 1944, and authorized an appropriation of not to exceed \$12,600,000 for that purpose.

<sup>10</sup> P.L. 89-673 (Oct. 15, 1966) established a uniform set of standards and procedures for handling such gifts.

## I. Legislation

Of the 43 public laws enacted in the 89th Congress relative to United States foreign policy and relations, the following are deemed of sufficient importance to be summarized below, under appropriate subject-matter headings:

*Foreign Aid.* (Public Law 89-171, Sept. 6, 1965 and Public Law 89-583, Sept. 19, 1966, 22 U.S.C. 2151 *et seq.*) The Foreign Assistance Act of 1965, amending the Foreign Assistance Act of 1961, as amended, authorized the expenditure of \$3,360 million for fiscal year 1966, of which \$3,218 million was appropriated.<sup>11</sup> The Foreign Assistance Act of 1966 further amending the 1961 Act, as amended, authorized \$3,503,990.5 for fiscal year 1967, of which \$2,936,490.5 was appropriated.<sup>12</sup>

Both the authorization acts and the appropriations acts included several important amendments to the basic Act, as well as limitations on existing law and authority affecting United States foreign policy, relations with other nations, and international as well as domestic law. During the 89th Congress, the general policy declaration of the basic Act was amended by the addition of (a) an expression of the sense of the Congress that assistance under this or any other act to any foreign country which hereafter permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, should be terminated and should not be resumed until the President determines that appropriate measures have been taken by such country to prevent a recurrence thereof<sup>13</sup> and to provide adequate compensation for such damage or destruction,<sup>14</sup> and (b) a declaration that "the furnishing of economic, military, or other assistance under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use the armed forces of the United States for the defense of any foreign country."<sup>15</sup>

<sup>11</sup> P.L. 89-273 (Oct. 20, 1965), Foreign Assistance Appropriation Act, 1966.

<sup>12</sup> P.L. 89-691 (Oct. 15, 1966), Foreign Assistance Appropriation Act, 1967.

<sup>13</sup> P.L. 89-171, *supra*, sec. 101(b).

<sup>14</sup> The Foreign Assistance Act of 1966 (P.L. 89-583), sec. 101 (a) broadened the existing provisions by adding the requirement for adequate compensation.

<sup>15</sup> *Ibid.*, sec. 101(b).

Chapter 2 (Development Assistance) was amended by the addition of three new criteria for the President to take into account when making development loans authorized by Title I thereof: (a) the degree to which the recipient country is making progress toward respect for the rule of law, freedom of expression and of the press, and recognition of the importance of individual freedom, initiative, and private enterprise, (b) the degree to which the recipient country is taking steps to improve its climate for private investment, and (c) whether the activity to be financed will contribute to the achievement of self-sustaining growth.<sup>16</sup>

Title II of Chapter 2 (Technical Cooperation and Development Grants) was amended to add criteria (a) and (c) above to those which the President must take into account when making grants; and a provision was added requiring that in countries where food production is increasing too slowly, or diets are seriously deficient, high priority shall be given to efforts to increase agricultural production, with particular emphasis on research programs to increase acre yields of major food crops, the research programs, where possible, are to be carried out cooperatively between universities and research institutions in the United States and the recipient developing countries.<sup>17</sup>

Title VI of Chapter 2 (Alliance for Progress) was amended by adding to the criteria which the President must take into account in furnishing assistance under this title, criteria (a), (b), and (c) listed above in Title I amendments, as well as an additional criterion—the extent to which the activity to be financed will contribute to the economic or political integration of Latin America; a further provision was added specifying that loans may be made under this title only for social and economic development projects and programs which are consistent with the findings and recommendations of the Inter-American Committee for the Alliance for Progress.<sup>18</sup>

Title VIII of Chapter 2 (Southeast Asia Multilateral and Regional Programs) added a policy statement that the acceleration of social and economic progress in southeast Asia is important to the achievement of United States foreign policy objectives of peace and stability in that area, and declared as the sense of the Congress that this objective would be served by an expanded effort by the

<sup>16</sup> *Ibid.*, sec. 102 (a) (1).

<sup>17</sup> *Ibid.*, sec. 103(a) (1) and (3).

<sup>18</sup> *Ibid.*, sec. 105(a) (1) and (2).

countries of southeast Asia and other interested countries in cooperative programs for social and economic development of the region, employing both multilateral and bilateral channels of assistance. In addition, the following criteria were added which the President must take into account in providing assistance under this title: (a) initiatives in the field of social and economic integration in southeast Asia, (b) regional economic cooperation and integration in southeast Asia, (c) the extent of participation by other potential donor countries, (d) the degree of peaceful cooperation among the countries of southeast Asia toward the solution of common problems, and (e) the ability of multilateral institutions or other administering authorities to carry out projects and programs effectively, efficiently, and economically. Finally, it was directed that in carrying out development assistance programs authorized in this chapter, emphasis should be placed on assuring maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local government activities.<sup>19</sup>

Chapter 3 (international organizations and programs) was amended to provide that in making contributions to the United Nations Development Program, the President "shall seek to assure that no contribution \* \* \* authorized by this Act shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime."<sup>20</sup> A further amendment directed that no contributions shall be made to the United Nations Relief and Works Agency unless that agency takes "all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army."<sup>21</sup>

Chapter 2 of Part II (military assistance) was amended by adding civic action programs as one of the objectives of military assistance and authorizing military assistance to foreign military forces in less developed friendly countries (or the voluntary efforts of United States Armed Forces personnel) to construct public works and to engage in other activities helpful to the economic and social

<sup>19</sup> *Ibid.*, sec. 106.

<sup>20</sup> *Ibid.*, sec 107(b). A similar provision was contained in the Foreign Assistance Appropriation Act, 1967 (P.L. 89-691, *supra*).

<sup>21</sup> *Ibid.*, sec. 107(c).



development of such countries;<sup>22</sup> it also expressed the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities, that such activities should not significantly detract from the capability of the military forces to perform their military missions, and that these activities should be coordinated with and form a part of the total economic and social development effort.<sup>23</sup>

Further amendments to the military assistance chapter of the basic Act provided (a) that up to \$25 million (of the \$55 million permanent annual authorization for grant programs of defense articles for American Republics) may be used for assistance on a cost-sharing basis to an inter-American military force under the control of the Organization of American States;<sup>24</sup> (b) that to the extent feasible, military assistance should be furnished to American Republics in accordance with joint plans (including those relating to internal security problems) approved by the Organization of American States;<sup>25</sup> and (c) that programs for the sale and exchange of defense articles shall be administered so as to encourage regional arms control and disarmament agreements and so as to discourage arms races.<sup>26</sup>

Chapter I of Part III (general provisions) was amended to clarify and make permanent a provision of the basic Act, added by

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<sup>22</sup> P.L. 89-171, *supra*, sec. 201(c). This amendment broadened the previous authority which limited military assistance solely for the specified purposes of internal security, legitimate self-defense, participation in regional or collective defense arrangements, or participation in United Nations peacekeeping functions. See S. Rept. 170, 89th Cong., p. 15.

<sup>23</sup> *Ibid.* This expression of the sense of the Congress was designed to provide guidelines in an attempt to insure that civic action programs should be incidental to the performance of military duties or a byproduct of the presence of a military unit in a particular locality, and to emphasize that the primary purpose of military assistance should be to meet military requirements. H. Rept. 321, 89th Cong.

<sup>24</sup> *Ibid.*, sec. 201(h)(1). The Conference Report on the 1965 Act stated that this amendment was intended to (a) encourage the establishment of an inter-American military force which would relieve the United States of much of the burden of maintaining peace in the Western Hemisphere; (b) require the other American republics to contribute financially to such a force; (c) make it clear that such a force will not be financed entirely by the United States; and (d) provide a \$25 million ceiling on United States contributions which is not required to be used for such purpose if it prove impracticable to establish such a force. H. Rept. 811, 89th Cong.

<sup>25</sup> *Ibid.*, sec. 201(h)(2).

<sup>26</sup> P.L. 89-583, *supra*, sec. 201(f).

the Foreign Assistance Act of 1964,<sup>27</sup> which provided that no United States court shall decline on the ground of the federal act of state doctrine to make a determination on the merits or to apply the principles of international law in cases involving a claim of title or other right, based upon a confiscation or other taking by a foreign state, which occurred after January 1, 1959, in violation of the principles of international law, including the principles of speedy compensation in convertible foreign exchange equivalent to the full value of the property affected. Exempted from this provision were cases (a) in which acts of a foreign state are not contrary to international law, (b) involving claims or title or other rights acquired pursuant to an irrevocable letter of credit of not more than 180 days duration, issued in good faith prior to the time of confiscation, (c) with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to that effect is filed on his behalf in that case with the court, and (d) in which proceedings were commenced after January 1, 1966.<sup>28</sup>

The 1965 amendments made this provision permanent law and also modified the text to make it clear "that the law does not prevent banks, insurance companies, and other financial institutions from using the act of state doctrine as a defense to multiple liability upon any contract or deposit or insurance policy in any case where such liability has been taken over or expropriated by a foreign state."<sup>29</sup>

New subsections were added to this chapter which provided that in view of the aggression of North Vietnam, the President shall consider denying assistance under this act to any country which has

<sup>27</sup> P.L. 88-633 (Oct. 7, 1964).

<sup>28</sup> *Ibid.*, sec. 301(d)(4). This provision, referred to as the "Hickenlooper Amendment," was designed to nullify the decision of the United States Supreme Court in *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964), in which the Court held that the act of state doctrine should be invoked to preclude judicial inquiry into the validity of an expropriation by a decree of the Cuban Government of property in Cuba owned by United States nationals. The constitutionality of the Hickenlooper Amendment was upheld in *Banco Nacional de Cuba v. Farr*, 383 F(2d) 166 (2d Cir., 1967) affirming 243 F. Supp. 957 (S.D.N.Y. 1965). See also 2 *Int. Lawyer* 361, ff. (Jan. 1968).

<sup>29</sup> P.L. 89-171, *supra*, sec. 301(d)(2). See Conference Report on H.R. 7750, H. Rept. 811, 89th Cong., p. 21. In explaining this amendment, which was agreed to by the House conferees, the Senate Committee on Foreign Relations stated that "in such cases, it is not intended to affect any defense previously available to such institutions." S. Rept. 170, 89th Cong., p. 19.

failed to take appropriate steps, not later than 60 days after the enactment date of the 1965 Act, to prevent ships or aircraft under its registry from transporting to North Vietnam (a) any items of economic assistance, (b) any items which are defined by the Mutual Defense Assistance Control Act of 1951 as arms, ammunition and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, or items of primary strategic significance used in the production of arms, ammunition and implements of war, or (c) any other equipment, materials, or commodities; and to prevent ships or aircraft under its registry from transporting any equipment, materials, or commodities from North Vietnam. It was further provided that in determining whether to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes or imposes any penalty or sanction against any United States fishing vessel on account of its fishing activities in international waters; but that this limitation shall not apply in any case governed by international agreement to which the United States is a party.<sup>30</sup> A 1966 amendment to this provision eliminated the President's discretion and substituted a flat prohibition against furnishing any assistance to countries which fail to take steps to prevent the transport of goods and materials to or from North Vietnam in ships or aircraft under their registry.<sup>31</sup>

Finally, additional amendments (1) prohibited assistance to the United Arab Republic unless the President finds and reports to the Congress that such assistance is "essential to the national interest" of the United States, and that such assistance will not assist aggressive actions by the United Arab Republic;<sup>32</sup> and (2) prohibited any assistance, including Public Law 480 sales, to any country which is engaging in or preparing for aggressive military efforts, or which is officially represented at any international conference where insurrection or subversion is planned against the United States or any country receiving assistance under this or any other act, or to which Public Law 480 sales are made; and required that this prohibition shall remain in effect, until the President determines that

<sup>30</sup> P.L. 89-171, *supra*, sec. 301(d)(4).

<sup>31</sup> P.L. 89-583, *supra*, sec. 301(h)(4). The Foreign Assistance Appropriation Act, 1967, contained a similar prohibition against furnishing assistance under the Foreign Assistance Act of 1961, as amended, to any countries doing business with Cuba so long as it is governed by the Castro regime, and to North Vietnam. (P.L. 89-691, *supra*, secs. 107(a) and (b).)

<sup>32</sup> *Ibid.*, sec. 301(h)(5).

such activities have ceased, or such representation has ceased, and he reports to the Congress that he has received assurances that they will not be renewed or repeated.<sup>33</sup>

The Foreign Assistance Appropriation Act, 1967, contained a provision reiterating the opposition of the Congress to the seating in the United Nations of the Communist China regime as the representative of China, and declared it to be

the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.<sup>34</sup>

The 1967 Appropriation Act further declared as the sense of the Congress

that any attempt by foreign nations to create distinctions because of their race or religion among American citizens in the granting of personal or commercial access or any other rights otherwise available to United States citizens generally is repugnant to our principles; and in all negotiations between the United States and any foreign state arising as a result of funds appropriated under this title these principles shall be applied as the President may determine.<sup>35</sup>

Finally, the 1967 Appropriation Act provided that

no assistance shall be furnished to any nation, whose government is based upon that theory of government known as communism under the Foreign Assistance Act of 1961, as amended, for any arms, ammunition, implements of war, atomic energy materials, or any articles, materials, or supplies, such as petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war, contained in

<sup>33</sup> *Ibid.*, sec. 301(h)(1).

<sup>34</sup> P.L. 89-691, *supra*, sec. 105.

<sup>35</sup> *Ibid.*, sec. 106. A similar provision was added to sec. 102 of the Foreign Assistance Act of 1961, as amended, by a 1962 amendment. (P.L. 87-565).

the list maintained by the Administrator pursuant to Title I of the Mutual Defense Assurance Control Act of 1951, as amended;

and

that no economic assistance shall be furnished to any such nation under the 1961 Act, as amended, unless the President determines that the withholding of such assistance would be contrary to the national interest and reports such determination to the Foreign Affairs and Appropriations Committees of the House of Representatives and the Foreign Relations and Appropriations Committees of the Senate.<sup>36</sup>

*Inter-American Bank.* (P.L. 89-6, March 24, 1965, 22 U.S.C. 283.) The Inter-American Development Bank Act was amended to authorize the United States to participate in an increase to the Fund for Special Operations, to the extent of \$750 million, without fiscal year limitation, payable in three annual installments of \$250 million. A provision was included requiring the United States, through the use of its voting power in the Bank, to disapprove any Fund for Special Operations loans to countries which expropriated United States property under circumstances specified in the act.

*International Monetary Fund Contribution.* (P.L. 89-31, June 2, 1965, 22 U.S.C. 286e-1b.) This measure authorized an increase of \$1,035,000,000 in the United States contribution to the International Monetary Fund, representing an increase of 25% of the United States share in the Fund's quotas and raising the total United States contribution to the Fund to \$5,160 million.

*Agreement Amendments Relative to the World Bank and the International Finance Corporation.* (P.L. 89-126, August 14, 1965, 22 U.S.C. 282h and 286e-4.) This Act authorized the United States Government to agree to amendments to the articles of agreement of the International Bank for Reconstruction and Development (World Bank) and the International Finance Corporation. The principal amendments involved permitted the Bank to make loans to the International Finance Corporation and authorized the Corporation to borrow from the Bank, up to four times its unimpaired capital and surplus. In addition, the United States Governor of the Bank was authorized to agree, without express congressional approval, to a World Bank resolution to increase its capital stock,

<sup>36</sup> *Ibid.*, sec. 109.

provided that the increase did not entail additional United States subscriptions.

*Asian Development Bank.* (P.L. 89-369, March 16, 1966, 22 U.S.C. 285.) This Act provided for United States participation in the Asian Development Bank and authorized an appropriation without fiscal year limitation of \$200 million for the purchase of 20,000 shares of capital stock in the Bank, representing the full amount of the United States subscription. The Bank is a regional development financing institution established by 19 Asian governments, with participation by 12 developed countries, including the United States, for the purpose of financing economic development projects and programs in and among the developing countries of Asia. The agreement which established the institution came into effect formally on August 22, 1966.

The legislation provided that the President cannot, without specific congressional authorization (1) subscribe to an increase in the United States subscription; (2) vote for or agree to any amendment to the Bank agreement which would increase United States obligations to the Bank or change its functions; and (3) approve any United States loans or other United States financing of the Bank, except that funds specifically limited to technical assistance in the amount of \$1 million in any one year could be provided to the Bank by a United States agency authorized by law to provide funds to international organizations. The legislation provided further that the United States deposit with the instrument of ratification a declaration that the United States retains the right to tax salaries and other payments by the Bank to United States nationals; and authorized the President to appoint a United States governor, alternate governor, and director with the advice and consent of the Senate.

*Claims of U.S. Nationals Against Cuba.* (P.L. 89-262, October 14, 1965, 22 U.S.C. 1643, *et seq.*) Public Law 88-662, enacted in 1964, amended the International Claims Settlement Act of 1949 by (1) authorizing the Foreign Claims Settlement Commission to determine the amount of claims of United States citizens and corporations against the Cuban Government, resulting from the expropriation of United States property in Cuba, and from disability and death since January 1, 1959, estimated at between \$1.2 and \$2 billion; and (2) specifying that none of these claims would be paid out of United States funds. The 1964 amendments provided further that the administrative expenses involved would be paid out of the

proceeds from the sale of Cuban Government assets which had been blocked in the United States, a provision which was objected to by the Department of State on the ground that the sale of Cuban assets for such purposes conflicted with United States policy recognizing the sanctity of property. To eliminate this objection, facilitate processing of the adjudication of claims, and clarify further the Commission's jurisdiction with respect to claims antedating the expropriation, the Act was further amended in 1965 and also authorized appropriations to cover the Commission's administrative expenses.<sup>87</sup>

*Claims of U.S. Nationals Against Communist China.* (P.L. 89-780, November 6, 1966, 22 U.S.C. 1643, *et seq.*) This Act amended Title V of the International Claims Settlement Act, as amended, to provide for the determination of the amount and validity of an estimated 2,500 claims of United States nationals against the Communist Chinese regime which have arisen since October 1, 1949, as a result of nationalization, expropriation, intervention, or other special takings of, or special measures directed against, property of United States nationals, including claims for disability or death of such persons arising out of violations of international law by the Chinese Communist government.

As in the case of Cuban claims, also covered in Title V, this Act authorized the Foreign Claims Settlement Commission to obtain and evaluate information concerning claims against Communist China and adjudicate them while records and witnesses are still available. No appropriation was authorized for payment of such claims, such action being specifically prohibited by section 501 of Title V of the original Act, and the Commission will have to obtain funds under existing authority to cover the administrative costs involved.

*Ryukyu Islands Damage Claims* (P.L. 89-296, October 27, 1965, 79 Stat. 1071.) This measure authorized a contribution by the United States of an amount not in excess of \$22 million to compensate citizens of the Ryukyu Islands for damages by United States Armed Forces during the occupation of Okinawa and adjoining islands from August 15, 1945 (Japanese surrender) to April 28, 1952 (Peace Treaty with Japan). The payments provided for were recommended by the Administration, following a review by a joint Ryukyuan-United States Committee, which reduced them from \$53 million to \$22 million. The act provided \$15 million for

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<sup>87</sup> Re, "The Foreign Claims Settlement Commission and the Cuban Claims Program," 1 *Int. Lawyer* 81 (Oct. 1966).

land rentals, \$3,650,000 for damage to property and growing crops and loss of fishing rights, \$2,500,000 for restoration of damaged released lands, \$800,000 for personal injury or death, and \$50,000 for water rights. It further provided that municipalities would be ineligible for payments, and that none of the funds may be used to pay claims or portions thereof, which have been satisfied by contributions by the Japanese Government. Fees in connection with claims were limited to five percent of the retail amount paid on the claims for services rendered on behalf of claimants, and to one percent for services rendered on behalf of any association or organization of claimants; fees already received (retainers) were to be deducted from the amounts authorized, and criminal penalties were prescribed for violations of the fees provision.

*Emergency Aid to India.* (P.L. 89-406, April 19, 1966, 80 Stat. 131.) This act approved United States participation in a program of emergency food aid to assist drought-stricken India as part of an international effort to relieve India's food crisis. It made available United States agricultural commodities under Public Law 480 to meet India's normal import needs as well as its current emergency food shortage. The international assistance program was also designed to assist in combating Indian malnutrition by a special program and to encourage and assist the expansion of India's own agricultural production. It also urged the President to join India in seeking assistance from other nations.

*International Coffee Agreement.* (P.L. 89-23, May 22, 1965, 19 U.S.C. 1356a.) This measure was designed to enable the United States to carry out its obligations under the International Coffee Agreement of 1962. It authorized the President to limit the importation of coffee from countries not participating in the Agreement; to prohibit entry of coffee shipments from participating members which were not accompanied by certificates of the origin or re-export of the coffee shipments exported or re-exported from the United States; and required recordkeeping concerning coffee importation, distribution, prices, and consumption. Although the Act authorized the appropriation of funds necessary to enable the United States to carry out the Agreement, it limited the United States contribution for the administration of the Agreement to 20 percent of the total contributions, and not more than \$150,000 for each fiscal year, and provided that before the Act would become effective, the President would have to determine and report to the Congress that it



would not result in an unwarranted increase in the price of coffee to United States consumers. Finally, it provided that the enabling legislation would remain in effect until October 1, 1968, the termination date of the Agreement, unless the Congress, by concurrent resolution determined that there had been an unwarranted increase in coffee prices which was attributable to the Agreement, in which event, the enabling authority would expire immediately.

*Canadian Automobile Agreement.* (P.L. 89-283, October 21, 1965, 19 U.S.C. 2001, *et seq.*) This Act implemented an agreement signed by President Johnson and Prime Minister Pearson on January 16, 1965, to remove United States and Canadian tariff duties on automobiles and new car parts. The Executive Agreement was entered into after United States parts manufacturers protested a tariff remission plan drawn up by the Canadian Government in 1963 to subsidize greater exports of automobiles. The principal provisions of the law (a) authorized the President to abolish retroactively to January 18, 1965, the 6.5 percent United States tariff on Canadian automobiles and the 8.5 percent duty on Canadian parts as applicable to those for use in original equipment; (b) directed the President to report to the Congress and, if necessary, to outline the steps for legislative action if he should determine that the Canadian Government, after August 31, 1968, had increased the percentage of local parts and labor that Canadian subsidiaries of United States corporations had agreed to put into automobiles produced in Canada during model years 1965-1968; (c) established, until July 1, 1968, a special adjustment assistance program for United States automobile firms and employees who were dislocated as a result of the United States-Canadian agreement; (d) directed the United States Tariff Commission to investigate and report to the President on applications for assistance; (e) authorized the President, after consultation with the Departments of Commerce, Labor, and the Treasury, and the Small Business Administration, to make a final determination as to whether assistance should be granted; (f) modified tariff schedules to designate automotive products on which duties were to be eliminated; and (g) authorized appropriation of whatever funds were necessary to implement provisions of the Act.

*Investment Disputes Convention Implementing Legislation.* (P.L. 89-532, August 11, 1966, 22 U.S.C. 1650.) As noted subsequently, United States participation in the Convention on the Settlement of Investment Disputes was finalized by Senate approval

of the President's ratification of the Convention in May 1966. Thereafter, legislation was required to enable the United States to fulfill its obligations under the Convention. This Act authorized the President to appoint a United States representative to the Administrative Council of the International Center for Settlement of Investment Disputes, and such panel members as are provided for under the Convention (four for each contracting nation). This statute also provided that (1) the pecuniary obligations imposed by an arbitral award rendered pursuant to the Convention shall be enforced and given the same full faith and credit as if given to a final judgment of a court of general jurisdiction of one of the several States (the Convention limits the obligation to enforce such an award to the monetary damages included in that award); (2) an award of an arbitral tribunal under the Convention is to be given the status of a right arising under a treaty of the United States; (3) United States District Courts are given exclusive jurisdiction to enforce arbitral awards under the Convention; and (4) the Federal Arbitration Act is specifically made inapplicable to the enforcement of arbitral awards made under the Convention.<sup>38</sup>

*Implementation of Florence and Beirut Agreements. (P.L. 89-634, October 8, 1966, 19 U.S.C. 2051, et seq.) (UNESCO.)*

These Agreements, sponsored by UNESCO, were designed to facilitate the free flow of educational, scientific, and cultural materials by the removal of the barriers that impede their international movement, to be accomplished through provision for their duty-free importation. The Florence Agreements covered books, periodicals, pamphlets, manuscripts, sheet or book music, works of art and antiques, and certain scientific materials and instruments. The Beirut Agreement covered certain visual and auditory materials of an educational, scientific, or cultural nature. Although the Senate consented to their ratification in February (Florence) and May (Beirut) of 1960, the deposit of ratification had to be withheld pending the enactment of implementing legislation. Public Law 89-651 amended the United States tariff schedules to permit the duty-free importation of materials covered by the Florence Agreement, many of which were already

<sup>38</sup> Hynning, "The World Bank's Plan for the Settlement of International Investment Disputes," 51 *Am. Bar. J.* 558-63 (1965) and Southwestern Legal Foundation, *Symposium Private Investors Abroad, Structures and Safeguards*, 147-71 (1966). Delaume, "Convention on the Settlement of Investment Disputes Between States and Nationals of Other States," 1 *Int. Lawyer* 64 (Oct. 1966).

duty-free or subject to low tariff schedule rates; and required the Secretary of Commerce to determine that no instrument or apparatus of equivalent scientific value was currently manufactured in the United States. Public Law 89-634 authorized the President to designate a Federal agency or agencies to carry out the provisions of the Beirut Agreement and amended the tariff schedules to permit duty-free entry of audio and visual materials determined by the Federal agency to be of an educational, scientific, or cultural nature. The materials covered were defined to include developed photographic film, including motion pictures, photographic slides, transparencies, sound recordings, recorded video tape, models, charts, maps, globes, and posters. The President was further authorized to impose restrictions on the entry of any article to insure that it would be used only for non-profit purposes, upon a determination that an article was being imported for exhibition use for profit which would significantly interfere with United States production of the article. By Executive Order 11311 (October 14, 1966), the President designated the United States Information Agency to carry out the provisions of the Agreement.

*United Nations Participation Act Amendments.* (P.L. 89-206, September 28, 1965, 22 U.S.C. 287.) This Act provided for changes in existing law to afford greater flexibility to the principal United States Representative to the United Nations by increasing his authority to assign duties to his colleagues, thereby promoting more effective utilization of top personnel at the United States Mission to the United Nations. It also provided statutory authority for the existing position of United States Representative to the European Office of the United Nations at Geneva. It made no provision for additional personnel and no changes in the existing requirements for Senate confirmation, contained in the United Nations Participation Act, as amended.

*Gold Cover.* (P.L. 89-3, March 3, 1965, 12 U.S.C. 413, 467.) This measure deleted from Section 16 of the Federal Reserve Act the requirement that each Federal Reserve Bank maintain gold certificate reserves valued at not less than 25 percent of the amount of commercial bank deposit holdings. The result of this action was to release approximately \$5 billion in gold to meet international claims on the dollar and allow the nation's money supply room for expansion. It did not affect the existing 25 percent reserve requirement on Federal Reserve notes.

*Duty-Free Allowances.* (P.L. 89-62, June 30, 1965, 19 U.S.C.

1321.) This Act made permanent the temporary \$100 ceiling on the value of foreign goods which United States citizens are permitted to bring into the United States duty free; provided that the exemption be computed on the higher retail value of the goods, rather than the wholesale value; required the traveler to bring the imported goods with him in order to obtain the duty-free advantages; decreased the amount of duty-free alcoholic beverages which could be brought into the United States from one gallon to one quart, except from certain United States possessions and changed the valuation under the existing \$10 exemption relative to mailed gift packages from wholesale to retail value.

*Export Control Act.* (P.L. 89-63, June 30, 1965, 50 App. U.S.C.

2022, *et seq.*) This Act extended the Export Control Act of 1949 for a four-year period, from June 30, 1965, to June 30, 1969. The basic Act provided legal authority for the control of exports to Communist nations and for the regulation of exports in line with United States foreign policy objectives. It authorized the administrative imposition by department and agency heads of civil penalties, not exceeding \$1,000, for violations of the Act; provided that export privileges under the Act may be withheld for one year as a means of collecting a penalty; and authorized judicial action for collection of the penalty. In addition, the measure declared that the policy of the United States was to oppose restrictive trade practices or boycotts by foreign countries against nations friendly to the United States and to encourage American business engaged in exporting to refrain from supplying information or taking other actions which would aid such boycotts. Finally, it expanded the definition of items whose export the President could prohibit or regulate by adding the words "any other information" to the definition section which lists "any articles, materials, or supplies, including technical data"; directed Executive Branch departments and agencies to adopt rules and regulations expeditiously to enforce the policy directives and to publish them within 90 days of enactment; and required American business firms to report to the Secretary of Commerce any requests from other nations to furnish information or to sign agreements in connection with restrictive boycotts of nations friendly to the United States.

*Foreign Bank Deposits,* (P.L. 89-79, July 12, 1965, 12 U.S.C.

371b, 1828.) This Act continued for three years the authority of domestic banks to pay higher interest rates on time deposits of foreign governments than they may pay on domestic deposits. The purpose of this measure was to encourage foreign governments and monetary authorities to maintain dollar accounts in the United States rather than convert them into gold or transfer them to other financial centers where they would eventually be converted into gold. This was one of the legislative enactments designed to reduce the dollar drain by making United States capital markets more attractive to foreign investors.

*Exemptions From Antitrust Laws.* (P.L. 89-175, September 9, 1965, 31 U.S.C. 931, *et seq.*) This legislation, which was designed to strengthen the United States balance-of-payments position, established procedures for voluntary agreements among banks, investment bankers and companies, pension funds, charitable trusts and foundations, and educational institutions. Safeguards were included which were designed to legalize such agreements only when their benefit to the United States balance-of-payments position overshadowed their detriment to competition, by authorizing the President to require reports from institutions participating in such agreements, and by requiring the Attorney General to conduct a continuous review of the operation of any agreement or program approved under the Act, and to recommend their suspension, when appropriate. The Act was to expire 20 months after it became law, or upon the certification of the President that its provisions were no longer necessary to safeguard the United States balance-of-payments position.

*Interest Equalization Tax.* (P.L. 89-243, October 9, 1965, 26 U.S.C. 4911, *et seq.*) This measure extended and strengthened the provisions of the Interest Equalization Tax Act of 1964, enacted in an effort to reduce the heavy and continued outflow of dollars resulting from borrowing and stock issues of foreign governments in United States financial markets. Enacted as a temporary measure, due to expire on December 31, 1965, it was designed to increase the cost of foreign borrowing by requiring Americans to pay a tax, as provided for in the law, whenever they acquired a foreign security, and was based on the theory that U.S. purchasers would pass on the extra cost of the tax to the foreigner, either through charging a higher interest rate on a loan, or demanding a discount on the purchase of the securities. The 1965 Act extended the tax for 19

months through July 31, 1967; broadened the scope of the tax to include the purchase of foreign bonds with a maturity period of 1 to 3 years, to apply retroactively to issues purchased after February 10, 1965, with minor exceptions. In addition, various types of transactions were exempted and a requirement was added that all international agreements under which foreign currencies are generated for the use of the United States must in the future contain provisions insuring that such currencies may be used to pay United States debts in that country, or, if not needed to discharge debt obligations, may be converted into dollars or other foreign currencies in amounts determined by the Secretary of the Treasury to be necessary for United States requirements.

*Foreign Agents Registration Act Amendments.* (P.L. 89-486, July 4, 1966, 22 U.S.C. 611, *et seq.*) The Foreign Agents Registration Act of 1938, as amended, was designed to protect the Government against foreign agents who sought to subvert it by requiring public disclosure of the identity of the principal, the nature of the work, funds received and spent in the United States, and propaganda disseminated. The 1966 amendments were designed to strengthen, clarify, and broaden the application of the Act by extending its coverage to public relations and other agents of foreign governments and principals who seek *not* to subvert the Government, but to influence it by means of political activities; and to clarify the status of attorneys by excluding from the coverage of the Act the normal non-political activities of attorneys representing foreign clients or foreign governments. They arose primarily out of hearings by the Senate Committee on Foreign Relations concerning the activities of lobbyists for foreign interests, with particular reference to representatives of governments seeking part of the United States sugar quota.

The 1966 Amendments (1) provided new definitions focusing the requirements of the law on individuals attempting to influence Government policies through political activities; (2) required that an agent file a detailed statement with the Department of Justice relative to his political activities and expenditures on behalf of his client, to include the interests or policies sought to be influenced and the means to be employed in accomplishing this objective; (3) required registered foreign agents to disclose their status and identify their principals when contacting Government agencies or officials, Members of Congress, and congressional committees, and to fil:

copies of their latest registration statement when appearing before such committees; (4) prohibited contingent fee contracts between an agent and his foreign principal, based upon the success of the political activities undertaken by the agent; (5) prohibited officers or employees of the United States from acting as agents of foreign principals; (6) prohibited agents from making campaign contributions for their foreign principals in connection with any election, including primaries, conventions, or caucuses and making such contributions and the acceptance thereof punishable by penalties of up to \$5,000, five years in prison, or both; (7) provided criminal penalties for violation of various requirements, and, in addition, provided the Attorney General with an injunctive remedy when compliance is considered inadequate; (8) granted the Attorney General specific authority to exempt certain persons from registration requirements, by regulation, when registration and disclosure of information are not necessary to carry out the purposes of the law; (9) provided for exemptions from registration of representatives of certain types of foreign commercial and financial concerns which have United States affiliates; (10) exempted the nonpolitical, normal professional activities of qualified attorneys, as well as those engaged in legal representation of a disclosed foreign principal before courts and administrative agencies, unless such legal representation involves an attempt to influence or persuade agency personnel other than in the course of formal or informal established agency proceedings; and (11) exempted from registration requirements persons soliciting contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering.

Failure of a person to disclose his identity as a foreign agent in the course of his political activities and the establishment of a contingent fee arrangement would be misdemeanors punishable by a fine of not more than \$5,000, imprisonment for not more than six months, or both. Other violations of the Act would continue to be felonies, punishable by a fine of not more than \$10,000, imprisonment for not more than five years, or both.

With further reference to the coverage of attorneys, the definition of the term "agent of a foreign principal" has been amended to exclude the word "attorney," on the ground that it says "more about a particular agent's field of endeavor than about his relation-

ship to his principal.”<sup>39</sup> In addition, the exemption section (3d) has been amended to exempt from the registration requirements foreign agents engaging in private and nonpolitical activities with a bona fide commercial purpose, based upon the conclusion that the earlier provisions were too narrow to encompass all legitimate commercial activities of agents for their foreign principals.<sup>40</sup>

Addressing themselves to this point, the reports of both the Senate Committee on Foreign Relations and the House Committee on the Judiciary stated:

The Department of Justice has interpreted the phrase ‘trade or commerce’ as including services and the committee approves of that interpretation of the Congress’ intent. The committee intends that the exemption as modified by this bill cover the normal professional activities of attorneys, engineers, architects, and other professional people with foreign clients, including foreign governments, so long as those activities do not constitute ‘political activities’ as the term is used in the bill. A specific exemption for attorneys for representation of foreign clients in the courts and before administrative agencies is contained in a subsequent provision, but the day-to-day, routine activities of attorneys in advising and counseling with foreign clients will continue to be exempt under this section. When advice is given or assistance is rendered with the intent to influence Government policy, the agent is engaged in a political activity and the exemption will not apply.<sup>41</sup>

*Cuban Refugees.* (P.L. 89-732, November 2, 1966, 8 U.S.C. 1255, note.) This act permitted Cuban refugees who had entered the United States after January 1, 1959 (beginning of the Castro Government), under visa waiver arrangements, and who had been physically present in the United States for at least two years, to apply to the Attorney General for adjustment of their status from indefinite non-resident alien to that of permanent resident alien. Prior to its enactment, nationals of independent countries in the Western Hemisphere were prohibited from entering the United States as nonimmigrants and then applying for readjustment of status to that of aliens lawfully admitted for immigration. To obtain an immigrant

<sup>39</sup> Report of the Senate Committee on Foreign Relations, S. Rept. 143, 89th Cong., p. 6; Report of the House Committee on the Judiciary, H. Rept. 1470, 89th Cong., p. 4.

<sup>40</sup> P.L. 89-486, July 4, 1966, sec. 3(d). See S. Rept. 143, 89th Cong., *supra*, note 39, p. 9; H. Rept. 1470, 89th Cong., *supra*, note 39, p. 11.

<sup>41</sup> *Ibid.*



visa and the right to apply for United States citizenship, they had to leave the United States and then apply for an immigrant visa to reenter. Following the break in diplomatic relations, in January 1961, between the United States and Cuba, there was no United States Consular Office in Cuba to which they could apply for an immigrant or any other kind of visa. Since they were admitted as refugees, they entered under a visa waiver arrangement and were not able to apply for permanent residence and ultimate United States citizenship. This act was designed to correct this situation.

*Foreign Gifts and Decorations Act.* (P.L. 89-673, October 15, 1966, 22 U.S.C. 2621.) The main purpose of this legislation was to establish a uniform set of standards and procedures for the acceptance of gifts and decorations offered by foreign governments to persons employed by the Government of the United States which, in accordance with then-existing law, were required to be placed in the custody of the Department of State. The tender of various gifts and decorations is an old and well-established practice which is made as a mark of esteem and appreciation by a foreign government, signifying that the person so honored has contributed in some small measure to more amicable relations between the United States and foreign governments. In accordance with Constitutional requirements, the Congress has, over the year, enacted numerous laws concerning this matter, resulting in a hodge-podge and lack of standards and uniformity. This statute grants the consent of the Congress to individuals to accept gifts and decorations of minimal value from foreign governments when refusal to accept such gifts would not be in the national interest. It also requires that gifts of more than minimal value be accepted on behalf of the United States and deposited by the donee with the United States.

## **II. Treaties, Conventions, and International Agreements**

Most of the 15 treaties and international agreements to which the Senate gave its advice and consent during the 89th Congress involved protocols and other amendments to existing agreements. The following, however, are deemed to be of sufficient importance to merit more detailed coverage:

*United Nations Charter Amendments.* The Senate, on June 3, 1965, consented to the President's ratification of two amendments to the United Nations Charter increasing the membership of the

Security Council and the Economic and Social Council to reflect the growth in United Nations membership from 51 in 1945 to 114 in 1965. United Nations Resolution No. 1991, containing the text of the amendments, was approved by the General Assembly on December 17, 1963, as the first amendment to the Charter since its adoption. It provided for amendment of Article 23 of the Charter to increase the membership of the Security Council from 11 to 15 members; to increase the number of Council members to be elected by the General Assembly to two-year terms from 6 to 10; and specified that in the first election following the increase in membership of the Security Council, 2 of the 4 additional members would be elected to terms of one year. It also amended Article 27 of the Charter to require 9, rather than 7, affirmative votes for Security Council decisions. The amendments did not affect either the seats of or the right to veto of the permanent members of the Security Council.

The United Nations resolution also amended Article 61 of the Charter to increase the membership of the Economic and Social Council from 18 to 27; required that 9, rather than 6, of the members would be chosen each year for a term of three years; and specified that in the first election following the increase in membership, 3 of the 9 additional members would be elected to one-year terms.

With respect to geographic representation, the United Nations resolution provided that in the case of the Security Council, 10 nonpermanent members shall be elected as follows: (1) 5 from African and Asian states; (2) 1 from Eastern European states; (3) 2 from Latin American states; and (4) 2 from Western European and other states. The effect of this is to double the representation of nonpermanent members from the above geographic areas, except Latin America which remains the same.

With respect to the Economic and Social Council, the Resolution specified that, without prejudice to the present distribution of seats, the 9 additional members shall be elected as follows: (1) 7 from African and Asian states; (2) 1 from Latin American states; and (3) 1 from Western European and other states. With the enlargement from 18 to 27, this results in the following distribution: (1) 12 from African and Asian states; (2) 6 from Western European and other states, including the United Kingdom and France; (3) 5 from Latin American states; (4) 3 from Eastern European states, including the U.S.S.R.; and (5) 1 from the United States. It may be noted that these patterns of geographic distribution for the nonper-

manent members of the Security Council and the members of the Economic and Social Council were not incorporated in the amendments submitted to the Senate for its advice and consent to ratification. They are, however, a part of General Assembly Resolution No. 1991, and govern the General Assembly's procedures in electing members to serve on both Councils. (Exec. A, 89th Cong., 1st Sess., reported favorably by the Committee on Foreign Relations, May 5, 1965, S. Exec. Rept. 1, 89th Cong., approved by the Senate on June 3, 1965.)

*Vienna Convention on Diplomatic Relations.* The Senate, on September 14, 1965, consented to the President's ratification of a convention codifying the traditional diplomatic principles observed by nations, together with an optional protocol concerning the compulsory settlement of disputes concerning diplomatic relations. Prepared under the auspices of the United Nations, the Convention is based largely on diplomatic practices as they have developed over the years, and sets forth the rights, privileges, and duties of all members of a diplomatic mission, of their families and private servants, as well as the rights and obligations of the state on whose territory they perform their functions. As a partial codification of these practices, it covers a variety of subjects, such as the functions, size, and location of missions; diplomatic privileges and immunities, including the treatment of mission premises and archives; freedom of movement; personal privileges and immunities, such as immunity from jurisdiction, tax exemptions, and custom privileges; the obligations of a mission and its members toward the state in which they serve; and termination of missions. According to the report of the Senate Committee on Foreign Relations, in general this Convention is more restrictive in its provisions on diplomatic privileges and immunities than current United States practices. The Convention and protocol were signed in Vienna on April 18, 1961.

The optional protocol concerning the compulsory settlement of disputes, which accompanied the Vienna Convention, and was also signed by the United States, provides that disputes arising out of the interpretation or application of the Convention may be brought before the International Court of Justice by any party to the dispute is also a party to the protocol, unless some other form of settlement, such as negotiation, conciliation, or arbitration, has been agreed upon within a reasonable period of time. The so-called Connally reservation,

therefore, would not apply to cases in which the United States might become involved relative to application and interpretation of the Vienna Convention. The protocol has the effect of eliminating application of the Connally amendment to a narrow group of cases which might arise only out of disputes as to the meaning or application of this particular Convention. Similar provisions have been included in at least 31 treaties and 10 other international agreements to which the United States has become a party in recent years. (Exec. H, 88th Cong., 1st sess., reported favorably by the Senate Committee on Foreign Relations, Sept. 8, 1965, without reservation, S. Exec. Rept. 6, 89th Cong., approved by the Senate on September 14, 1965.)

*Investment Disputes Convention.* The Senate, on May 16, 1966, consented to the President's ratification of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, which was approved by the Executive Director of the International Bank for Reconstruction and Development on March 18, 1965. The United States signed the agreement on August 27, 1965, and the convention was declared in force on October 14, 1966, when the 20th nation ratified the agreement.

The principal purpose of the Convention was to provide machinery for the settlement by conciliation or arbitration of investment disputes between private foreign investors and governments of the countries in which the investments are made. To accomplish this objective, the Convention established the International Center for the Settlement of Investment Disputes, under the auspices of the International Bank for Reconstruction and Development, to provide panels of specially qualified persons from which arbitrators and conciliators can be selected by parties desiring to use the Center. The Convention provided further that the decision to submit a dispute to arbitration or conciliation would be voluntary and would be based upon a written agreement between the foreign investor and the contracting state. The Center began operations early in 1967.

In its report recommending favorable Senate action, the Committee on Foreign Relations stated that the Convention, in addition to facilitating the settlement of investment disputes, was also designed to improve the international investment climate and stimulate the flow of private investment capital to the less developed countries

throughout the world, an objective which was consistent with past congressional efforts to encourage increased participation by private enterprise in economic development abroad. (Exec. A, 89th Cong., 2d sess., reported favorably by the Senate Committee on Foreign Relations, May 11, 1966, without reservation, S. Exec. Rept. 2, 89th Cong., approved by the Senate on May 16, 1966.) <sup>42</sup>

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<sup>42</sup> Delaume, *supra*, note 38.