

THE SECRETARY OF STATE  
WASHINGTON

Dear Mr. Chairman:

I would like you to know how much I appreciate recent actions of both the Senate and House in providing needed supplementary foreign assistance and State Department funds for FY-85. As you begin consideration of the FY-85 Supplemental in Conference, I would like to bring to your attention the following points concerning matters of deep concern to the Department of State:

Nicaragua: The Supplemental Appropriations Bill contains funding for humanitarian assistance critical to the Nicaraguan democratic resistance. By its recent positive votes, the Congress has sent a strong signal of support for the President's goal of achieving a peaceful resolution of the conflict in Central America.

The Administration prefers the Senate version of the legislation since it would permit the President to decide which agency in our government is best suited to carry out this urgent program. The House bill would unnecessarily constrain the operation of the program. Assigning responsibility to a new agency, with no previous experience in handling such a program, would inevitably create delays in providing assistance approved by the Congress which is urgently needed as a demonstration of U.S. resolve and commitment to support democratic forces in Nicaragua.

It is also vital to U.S. interests that the assistance be administered with discretion, taking fully into account the sensibilities of friendly third parties in the region. Legislative oversight procedures covering intelligence activities are uniquely appropriate to ensure compliance with the law, and the Senate legislation contains adequate safeguards on the nature and scope of the assistance to ensure that the funds will not be administered in an inappropriate way.

The Honorable  
Mark O. Hatfield, Chairman,  
Committee on Appropriations,  
United States Senate.

The two bills also differ in the amounts appropriated and the period during which funds are available. Both appropriate funds at roughly the same average rate, but the Senate amendment makes monies available through the end of FY-86. We urge that funds be available for this longer period and without the requirement in the House bill for equal disbursements every 90 days. The Senate has also provided for the transportation of authorized assistance, while the House language unnecessarily limits transportation alternatives.

The House bill earmarks \$2 million for verification of a peace agreement. Although the administration strongly supports U.S. contributions to effective verification of a satisfactory agreement, we do not believe that we should prejudge which countries or organizations might be selected by the Contadora countries to participate in verification. Moreover, effective verification will require funding in excess of the amounts specified in the House bill, and we would not wish to mislead the parties into believing that we are not prepared to make a more substantial contribution.

Finally, the Senate language modifies the blanket restrictions contained in present law on the President's ability to assist the Nicaraguan democratic resistance. In doing so, this legislation recognizes the need for intelligence exchanges and other possible support activities not presently possible. At the same time, the Senate provision makes clear that no material assistance other than humanitarian may be provided, thereby meeting an important concern of the Congress.

Jordan: The Administration has requested, and the Senate version provides, \$250 million in economic assistance for Jordan. The inclusion of this assistance in the Supplemental will provide an immediate relief to Jordan's struggling economy. It will also send an important and timely political signal of support.

King Hussein has been instrumental in advancing prospects for further progress towards peace in the Middle East. He has openly stated his desire to negotiate directly with the State of Israel for peace based on UNSC Resolutions 242 and 338 and to begin peace negotiations this year. This situation offers more potential for progress towards peace than we have seen in years, and it is in the United States national interest to use whatever foreign policy tools may be available to support the momentum already achieved and to encourage further movement along this constructive avenue. The proposed assistance for Jordan can help provide the King with the economic stability he



needs while confronting the hard political choices involved in steps to achieve peace.

We believe the Conferees should make clear their intent with respect to the availability for obligation of ESF for Jordan. As written, the provision specifically related to Jordan provides for a disbursement schedule through March 1987. However, at the end of the ESF paragraph, there is a general provision which makes funds available for obligation until September 30, 1986; the provision could be misinterpreted to apply to the Jordan funds. We understood however that the 1986 expiration date would apply only to Israel, Egypt and the Middle East Regional Program. We hope the Conferees will take action to clarify that the Jordan supplemental is available for obligation through March 1987.

Finally, the Administration agrees that the issue of increased military assistance is of great significance and must be very carefully considered. However, the policy of the Congress expressed in Section 403 is inconsistent with the policy of the Administration. The Administration will engage in broad-based and constructive consultations with the Congress, seeking the development of a true consensus concerning such assistance. At the same time, a policy under which Congress will not consider a request for major defense articles to Jordan until the commencement of direct peace negotiations between Israel and Jordan, is not a policy that this Administration can accept or follow. If that policy provision remains in the bill, it will be impossible to obtain the consensus the Administration offers to seek.

Israel: The Senate bill calls for disbursement of \$750 million of the \$1.5 billion within thirty days of enactment. The House bill contains no accelerated disbursement schedule; the House report supports disbursement based on the President's discretion, based on joint efforts of Israel and the U.S. to achieve sufficient economic reform. The Administration supports the House version which supplies the necessary flexibility to encourage effectively Israel's economic reform. Now that the Government of Israel has announced a comprehensive economic reform program, we will work together with the GOI to determine the amount and timing of disbursements that best fit Israel's needs.

USSR: The Department opposes the provision in the Senate bill (the Chiles amendment, No. 378) which would prohibit the Soviet Union from occupying its new chancery building in Washington until the Soviet Union reimburses the U.S. for

damages incurred as a result of delays caused by the Soviets in the construction of the new U.S. Embassy in Moscow. The provision further states that these costs shall be determined by either negotiation with the Soviet Union or by arbitration but that these negotiated or arbitrated costs cannot be accepted if less than the amount determined by the Secretary of State to have been expended on account of damages due to delay.

The Administration considers an expression of Congressional support for our efforts to obtain reimbursement for damages caused by the Soviet construction to be useful. However, this provision prejudices -- and preempts -- the negotiation and arbitration process and thus destroys its utility as a means of settling the disputes arising over damages. The Administration believes this process should be kept intact and that it is the most effective means of obtaining redress. In fact, this process has already been set in motion, and we will pursue it. This will give the executive and legislative branches a chance to evaluate its effectiveness before we have to consider the issue of allowing the Soviets to move into their new chancery, a question that will not arise until 1987 at the earliest. In this connection, the Department will undertake to report to the Congress in a year in order to enable it to consider further the situation at that time.

I hope the Conferees can be helpful on these issues of major interest to us and on the others mentioned in Annex A. Your cooperation is very much appreciated.

Sincerely yours,

George P. Shultz

Enclosure:

Annex A.



## ANNEX A

Lebanon: We strongly oppose any further reprogramming of unobligated ESF funds still available to Lebanon. After reprogramming of \$37 million urgently needed for Jamaica and Grenada, only \$17.8 million will remain for Lebanon. Although the security situation has interfered, necessary relief and limited reconstruction projects continue. No one questions that Lebanon's needs are massive. Moreover the USG needs to retain the influence and access afforded by this modest economic assistance program in order to protect important U.S. interests in Lebanon and the area.

Security Measures: The Administration has no objection to the provision in the Senate bill which would appropriate \$50 million to the director of Central Intelligence for the enhancement of security countermeasures capabilities in the US Embassies abroad. However, the Department of State has the principal responsibility for security measures for all agencies at U.S. diplomatic missions abroad. The legislation thus should be modified to include the Department so as to reflect its responsibilities. This will avoid confusion in the administration of this crucial activity.

U.S. Accession to World Court Jurisdiction: The Department opposes the provision in the Senate bill which provides that the President shall report to the Speaker of the House and President of the Senate sixty days before any notification to the U.N. Secretary General that the U.S. declaration of acceptance by the compulsory jurisdiction of the International Court of Justice shall not apply to a certain dispute. This provision purports to preclude the U.S. from acting in urgent situations to protect its interests even in a case where both the Executive Branch and the Congress believe immediate action is required. This is so because the U.S. is unlikely to know sixty days in advance of a certain dispute being brought against it. The mandatory sixty day waiting period would give a potential adversary ample time to respond to any proposed withdrawal by filing its papers during the sixty days and thus irrevocably seizing the court with jurisdiction over a case before any U.S. modification could be effective. Moreover, the effort to preclude for sixty days the exercise of Executive Branch authority raises constitutional questions.

I strongly urge that any legislative consideration of the International Court of Justice await adequate study by and consultation between the Department and the Congress. The Department has been studying this matter as have interested private organizations including the American Bar Association and the American Society of International Law.



"Copper" Amendments: We do not favor the Garn amendment in the Senate bill which would require that U.S. Executive Directors to the International Financial Institutions oppose loans for copper mining and production. We also do not favor Senator Domenici's amendment, as we do not believe establishing additional criteria for U.S. votes is necessary. Legislative guidelines are already in place providing that the U.S. oppose loans for the production and export of any commodity if it is in surplus and will cause substantial injury to U.S. producers. U.S. votes are based in any case on criteria designed to ensure that loans are made only for financially sound projects. Financing commodities -- copper or otherwise -- in surplus on world markets or which are likely to be so at the time the additional output comes into production would not normally be consistent with such criteria. In addition to their being unnecessary, the proposed amendments might even be counter-productive, as they will allow other members of the affected institutions to interpret a U.S. stand against certain economically unsound projects as protectionist in nature. If others interpret our positions as protectionist, they most assuredly will not support us, and our opposition to the loans will be ineffective.

Extradition of John Lincoln Tamboer: The Department objects to language on this case for two reasons. First, the amendment imposes a mandatory obligation on the Department without specifying the limits of such obligation, e.g., it is not clear from the amendment what the term "all necessary steps" entails. Second, the Department believes that the amendment is unnecessary because the Department already has well-established procedures for monitoring cases of American citizens incarcerated abroad, including the treatment afforded those who have been extradited. In the case of Mr. Tamboer, who was surrendered to Colombia on June 21, we have been following those procedures diligently.

American University in Cairo: The Department objects to this provision in the Senate bill which would require the equivalent of \$65 million in Egyptian currency being deposited in a trust fund for an endowment for the University. This provision will force the diversion of local resources away from higher priority requirements at a time when austerity measures are being encouraged by the US as a part of a comprehensive Egyptian economic recovery program.

Provision relating to Activities Against the Government of Nicaragua: The Department considers Senate Amendment 396 unnecessary. The US is clearly committed to and has been fulfilling its treaty obligations; this commitment need not be reiterated as a matter of appropriations law. It is also

inappropriate insofar as it may be used by those seeking to undermine US policies approved by Congress to suggest that the US is not fulfilling its treaty commitments.