

CRS Report for Congress

Foreign Aid Reform Legislation: Background, Contents and Issues

Larry Q. Nowels
Specialist in Foreign Affairs
Foreign Affairs and National Defense Division

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FOREIGN AID REFORM LEGISLATION: BACKGROUND, CONTENTS AND ISSUES

A consensus has existed for some time that the current foreign aid program was in need of a comprehensive reorientation. With the end of the Cold War, the United States confronts a different set of international and domestic challenges: setting right a number of domestic ills, making delayed social investments, aiding the emerging democracies of the former Soviet bloc, addressing ethnic conflict and other transnational concerns, supporting a diversified developing world, and engaging in a highly integrated global economy that makes it increasingly difficult to separate domestic and foreign policy.

Despite global change, the U.S. foreign aid program is largely a continuance of earlier programs. The Foreign Assistance Act of 1961 is encumbered with many goals and objectives that lack focus and spread program resources too thin to achieve meaningful results. Past Administrations have argued that existing foreign aid laws unduly restrict the President's ability to use the program as an effective foreign policy tool. Beyond the accumulated legislative mass, the foreign aid program suffers from other problems, including past leadership and management practices at the Agency for International Development (AID).

The Clinton Administration on February 2, 1994, sent to Congress the "Peace, Prosperity, and Democracy Act of 1994," a bill that repeals the 1961 law and forms a new statutory basis for a restructured U.S. foreign aid program. Executive-legislative consultation on a "discussion draft" text of the new bill occurred in late 1993, and a revised version, introduced as H.R. 3765, accommodates several congressional concerns: U.S. nuclear non-proliferation policy and aid for Pakistan; separate funding for economic and military programs; and protection from transfer of development aid resources. Congressional committees began hearings on the legislative initiative in early February.

The new foreign aid reform bill framework abandons the current practice of organizing and budgeting foreign aid resources around multiple functional accounts. Also gone, with a few major exceptions, are programs aimed at specific countries, and restrictions and prohibitions directed at individual nations. Instead, the President proposes to organize foreign aid policy and resource allocations around five thematic objectives of U.S. foreign policy: sustainable development; building democracy, which includes assistance to the former Soviet Union; promoting peace, including support for Israel, Egypt, and others pursuing peace in the Middle East; providing humanitarian and crisis aid; and promoting economic growth through trade and investment. The bill would maximize Presidential flexibility to implement aid programs. The broadening of Presidential powers and the removal of many restrictions is likely to be one of the most controversial issues between Congress and the Executive branch.

As Congress begins hearings on the President's legislation, a wide array of congressional concerns and questions are likely to arise, including: 1) the extent of real change represented by the new bill; 2) whether the legislation is sufficiently inclusive and integrated; 3) the definition and content of the new AID mandate -- sustainable development; 4) how the bill addresses high priority aid recipients; 5) the wide flexibility sought by the President; and 6) the budget resources needed to support new program goals.

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FOREIGN AID REFORM LEGISLATION: BACKGROUND, CONTENTS AND ISSUES

There is broad agreement that the United States foreign assistance program is in need of a major overhaul to establish a new rationale consistent with post-Cold War U.S. interests and to restore confidence in what traditionally has been an important foreign policy tool. As part of that effort, on February 2 the Clinton Administration sent to Congress the "Peace, Prosperity, and Democracy Act of 1994," legislation that repeals the 1961 law governing foreign assistance and forms a new statutory basis for a restructured U.S. foreign aid program.¹ The bill, which many lawmakers have been urging the President to submit, comes after two months of executive-legislative consultation on a "discussion draft" version of the bill. The Administration accommodated some congressional concerns raised during the consultation process -- including those regarding U.S. nuclear non-proliferation policy and aid for Pakistan; separate funding for economic and military programs; and protection from transfer of development aid resources. Congressional committees began hearings in early February on the legislative initiative.

This report provides background on the foreign aid reform effort and summarizes the Administration's new legislative framework. It also raises six key policy issues that are likely to be of interest to Congress and that represent areas where changes might be expected during congressional debate. These are (1) the extent of real change represented in the new bill, (2) whether it is a comprehensive framework as advertised by the Administration, (3) the definition and content of "sustainable development," (4) how high priority country aid recipients are addressed in the bill, (5) the degree of Presidential flexibility sought, and (6) whether adequate budget resources will be available to support new program goals.

The Need for Foreign Aid Reform: Background and Context

A predominant characteristic of the foreign aid program over the past 45 years has been its support for strategies closely linked to U.S.-Soviet confrontation in Europe and in the developing world. Security considerations frequently dominated foreign assistance policy formulation during the Cold War. That era has ended, and the United States confronts a different set of international and domestic challenges. Instead of confronting the Soviet bloc, the United States and other governments are using significant amounts of aid resources to help the emerging democracies in Eastern Europe and the former Soviet Union. Transnational concerns regarding the environment, ethnic conflict, immigration, illicit drug trafficking and terrorism have been elevated among U.S. interests, and in some cases have led to greater use of multilateral options to international problem solving. The developing world, where most foreign aid has been programmed, also has changed significantly, comprised of countries with diverse interests, capabilities and needs, at widely varying stages of economic development. These nations are the fastest growing markets for U.S. exports. The global economy, moreover, has become highly integrated,

¹ The legislation was introduced, by request, as H.R. 3765.

making it increasingly difficult to separate domestic and foreign policy. The United States no longer dominates as the world's leading bilateral donor of economic assistance, sharing that position with Japan.

Despite these dramatic changes, the U.S. foreign aid program, legislatively and administratively, is still largely framed on past threats and goals. The Foreign Assistance Act of 1961 (FAAct) remains, after 32 years, the basic statute guiding the program. The last major overhaul of the FAAct came in 1973, when Congress restructured development aid programs, shifting emphasis from a "top-down" approach to a "basic human needs" strategy that directly targeted the poor segments of the population in developing countries. Other approaches have developed since, including a focus on structural adjustment of economies and an emphasis on private sector promotion and good governance. A frequent criticism is that foreign aid legislation is encumbered with too many goals and objectives -- 33 by one count -- that lack focus and a sense of priority, that are in some instances impractical or unrealistic, and that spread program resources too thin to achieve meaningful results. Present and past Administrations also argue that existing foreign aid laws unduly restrict -- with numerous conditions, restrictions, and funding earmarks -- the President's ability to use the program as an effective foreign policy tool.

Beyond the accumulated legislative morass, it is widely said that the foreign aid program suffers from other deficiencies. Leadership and management practices at the Agency for International Development (AID), the primary U.S. agency responsible for implementing economic aid projects, have often been attacked in recent years. AID has been criticized especially for lacking the ability to impose adequate program accountability and to measure clearly and demonstrate the impact of its roughly \$6.5 billion annual budget.

Previous Legislative Reform Initiatives

Submission of the Peace, Prosperity, and Democracy Act of 1994 (PPDAct) comes nearly five years after several influential Members of Congress launched their own effort to rewrite the basic statute and establish new program goals. Even before the breakup of the Eastern bloc and the Soviet Union, a House Foreign Affairs Committee Task Force, headed by Representatives Hamilton and Gilman, issued the results of a year-long review of foreign aid in January 1989. The Task Force concluded that although foreign assistance continued to serve U.S. foreign policy interests, the current program suffered from too many goals and priorities and from weak accountability standards, and that Congress, through earmarks, restrictions, and reporting requirements, undermined effective program implementation by the Executive branch. The Task Force called for the repeal of the Foreign Assistance Act of 1961 and enactment of new legislation that, among other things, would eliminate most congressionally-imposed restrictions and establish four core program objectives: economic growth, environmental protection, poverty alleviation, and political, economic, and social pluralism.

Based on the Hamilton/Gilman Task Force recommendations, the House passed a foreign aid reform bill in 1989. Lawmakers, however, received little support from the Bush Administration and the Senate did not take up the legislation. House reform proponents tried again in the 102d Congress, this time with participation from the Senate and the Executive branch. The Bush Administration's proposal, however, was widely viewed as an effort to enhance Presidential flexibility without making the fundamental changes necessary to rationalize foreign assistance in the post-Cold War world. Although legislation (H.R. 2508) negotiated by House and Senate conferees took some steps toward restructuring foreign aid, the bill fell short of the type of comprehensive overhaul called for in the Hamilton/Gilman initiative. Ultimately, the House rejected the foreign aid conference report in October 1991, days before congressional elections and at a time when national sentiment focused on domestic economic problems.²

Foreign Aid Reform Efforts in the Clinton Administration

Clinton Administration efforts to restructure foreign aid began in the first months of 1993, raising congressional expectations for rapid delivery of a legislative initiative to rewrite the Foreign Assistance Act of 1961. The President launched two policy reviews -- one under the direction of then-Deputy Secretary of State Clifford Wharton and the other by the National Security Council staff -- that were to examine U.S. foreign aid goals and objectives, and alternative ways to organize aid programs and agencies. A partial draft of the "Wharton Report" was discussed at congressional hearings in July, but a complete and final study was not released until November. This, coupled with delays in submission of draft legislation to rewrite the FAAct -- the centerpiece for congressional participation in restructuring the foreign aid program -- resulted in mounting congressional impatience. Congress voted in September (P.L. 103-87), for example, to terminate AID funding by March 31, 1994, if no aid reform plan had been submitted. Subsequently, the Administration sent Congress a "discussion draft" bill on November 22. Following consultation between the two branches, the executive branch sent to Congress a formal legislative initiative on February 2, 1994, that Congress is expected to take up early in the new session.

Debate and enactment of a new statutory framework is regarded as highly important -- especially from the congressional perspective -- for transforming foreign assistance into an instrument that effectively serves U.S. domestic and foreign interests. Nevertheless, it represents only one part of the process to overhaul the foreign aid program. After initial delays, the Administration has

² For background on congressional foreign aid reform debates in 1989 and 1991, see *Foreign Assistance: Congressional Initiatives to Reform U.S. Foreign Aid in 1989*, by Larry Nowels, CRS Report 90-326, May 10, 1990; and *Foreign Assistance and Congressional Debate: International Challenges, Domestic Concerns, Decisions Deferred*, by Larry Nowels, CRS Report 92-371, April 17, 1992. Each report is also available in the House Foreign Affairs Committee prints, *Congress and Foreign Policy*, 1989 and 1991, respectively.

begun to take other steps that are related to and run parallel with the legislative initiative, but which are not contingent on enactment of a new law. New AID Administrator Brian Atwood, for example, has implemented a number of administrative actions designed to start the process of restructuring how the agency manages its overseas development responsibilities. AID finalized a reorganization plan in November based on three principles: simplify the structure, focus on program results, and make the agency more integrated and interdependent. Major organizational changes include creating a new Global Programs Bureau that will consolidate agency technical staff into one office to support the regional bureaus and field missions. The plan also added a crisis management capability to the existing food aid and humanitarian assistance bureau. AID further issued plans to close 21 foreign missions that officials say will save \$26 million in operating expenses. In January 1994 AID released a series of strategy papers under the agency's new mandate to promote sustainable development, and plans to release outlines for managing a results-oriented program. Reforming the much-maligned AID contract and procurement system is another priority of the agency's leadership.⁸

⁸ See, for example, "Rescuing AID," by Dick Kirschten, *National Journal*, October 2, 1993, p. 2369; and letter from Brian Atwood to Congressman Lee Hamilton, November 10, 1993, printed in *Congressional Record*, November 19, 1993, p. E2942.

The Peace, Prosperity and Democracy Act: Content and Scope

Senior Administration officials have characterized the foreign aid reform bill as a "new and more relevant framework for American foreign policy and foreign assistance programs...one that is based on a policy of preventive diplomacy."⁴ Key to the new framework is abandoning the current practice of organizing and budgeting foreign aid resources around multiple functional accounts -- such as development assistance, Economic Support Fund, Foreign Military Financing, PL 480 food aid, and special initiatives including assistance to the former Soviet Union and Eastern Europe. Executive branch officials argue that this traditional method is ill-suited for presenting a coherent rationale that explains how the program directly serves U.S. national interests and why the Congress and American people should support it. Also gone, with a few major exceptions, are programs aimed at specific countries, and restrictions and prohibitions directed at individual nations.

The President proposes to organize foreign aid policy and resource allocation around five thematic objectives of U.S. foreign policy:

- Sustainable development
- Building democracy
- Promoting peace
- Providing humanitarian and crisis aid
- Promoting economic growth through trade and investment

It is intended that all assistance, regardless of the type of aid or administering agency, should support one or more of these organizing principles. As contemplated, assistance will not be built initially, for the most part, with a specific country orientation, but rather will be designed to promote broad U.S. goals and values (democracy, free market economies, etc.) and confront global problems that are shared concerns of the United States and other nations (environmental degradation, terrorism, conflict, weapons proliferation, refugees, for example). These five goals are each the subject of separate titles in the bill that explain the policy and authorize how aid funds will be spent. A sixth title -- advancing diplomacy -- explains the relationship between diplomacy and achievement of the five objectives.

The second major feature of the Administration's bill -- set out in titles VII through IX -- is an attempt to maximize Presidential flexibility to implement aid programs and to streamline administrative authorities concerning coordination, procurement and personnel issues. The proposed legislation extensively rewrites current restrictions on country aid eligibility, consolidating them into seven

⁴ Statement of Brian Atwood, Administrator Agency for International Development, at State Department press conference, December 3, 1993.

generic criteria and removing references to specific countries.⁵ The bill further grants the President broad "national interest" waiver authority that in some cases offers greater latitude than currently exists. The President is also given exceptional authority to transfer funds from one purpose to another, although transfers are not permitted from the sustainable development account. The bill requires that Congress be notified, and in some cases consulted in advance, of Presidential action. Requirements for an annual budget justification report and subsequent notifications of program changes -- key instruments used by Congress to maintain program oversight -- generally follow current practice, although the bill streamlines notifications required for sustainable development activities. The broadening of Presidential powers and the removal of many restrictions is likely to be among the most controversial issues between Congress and the Executive branch.

A new foreign aid policy framework is not only necessary to restore coherence and purpose to the program, say officials, but it must also closely support the new strategy of "enlargement" that President Clinton hopes will be the successor to the Cold War doctrine of containment.⁶ The concept of enlargement, articulated in speeches by senior Administration officials in October, argues that the central security interest for the United States is the expansion and consolidation of democratic and market reforms -- to enlarge the community of market economy democracies. Foreign policy administrators have been sharply criticized in the past for not adequately demonstrating how foreign assistance directly promotes U.S. interests at home and abroad. Linking fewer but better defined foreign aid goals specifically to core fundamental U.S. foreign and domestic policy strategies, the Administration believes, is essential to restoring confidence and broad based support in Congress and among the American people.

One component of the Administration's foreign policy strategy is to ensure economic security at home, an element Executive branch officials argue is supported within the new foreign aid framework by trade and investment programs, and by aspects of sustainable development that will help build trading partners for U.S. exporters in the developing world. Another major ingredient of the enlargement strategy is to increase the number of democratic states. Making assistance to these emerging countries one of the central objectives in the new foreign aid legislation will make a critical contribution to promoting political and economic reform in the former Soviet Union and elsewhere, according to the Administration. Reducing threats posed by anti-democratic

⁵ Earlier versions of the draft legislation included an eighth criteria concerning aid prohibited for countries violating U.S. nuclear nonproliferation policy. Following congressional opposition to changing current law on this subject, and especially dropping specific restrictions on assistance to Pakistan, the Administration set out in the PPDA a separate section (Sec. 7205) on nuclear proliferation and conditions on aid to Pakistan.

⁶ See, *The Clinton Foreign Policy: Emerging Themes*, by Mark Lowenthal, CRS Report 93-951, November 1, 1993.

governments and helping resolve regional conflicts are further elements of enlargement that are bolstered, say drafters of the new foreign aid framework, by a range of programs authorized in the bill, including peacekeeping, defense cooperation, narcotics, and terrorism.

The following summarizes each of the major program objectives set out in Titles I through VI of the PPDAct and special program and administrative authorities found in Titles VII and VIII. (See appendix for a table of contents of the entire legislation.)

Sustainable Development -- Title I

- **Replaces current development assistance accounts**
- **Reduces program goals to four core objectives**
- **Folds the Development Fund for Africa into worldwide sustainable development programs**

Sustainable development programs authorized in Title I of the bill essentially replace the multiple development aid accounts found in Part I of the FAAAct. These FAAAct accounts -- focusing on agriculture, health, child survival, education, population, energy, environment and private enterprise -- formed the basis of the basic human needs strategy initiated by Congress in 1973. As spelled out in an AID strategy paper, sustainable development is marked by "economic and social growth that does not exhaust the resources of a host country; that respects and safeguards the economic, cultural, and natural environment; that creates many incomes and chains of enterprises; that is nurtured by an enabling policy environment; and that builds indigenous institutions that involve and empower the citizenry."⁷ The Administration has developed four core objectives of sustainable development that it says will replace the 33 goals of current economic aid programs:

- **encouraging broad-based economic growth**
- **protecting the global environment**
- **supporting democratic participation**
- **stabilizing world population growth**

The PPDAct cites as other aspects of sustainable development such principles as empowering people to make their own economic and political decisions, expanding the participation of women in society, and involving nongovernmental organizations. The legislation highlights the importance of microenterprise activities and encourages a "partnership" with U.S. private voluntary organizations, cooperatives, credit unions, and universities. The bill also prohibits (Sec. 7209) the use of sustainable development assistance for military or paramilitary purposes, except in cases where the participation of military

⁷ USAID. Strategies for Sustainable Development. January 1994, p. 4.

personnel in training or other activities is consistent with the objectives of title I.

A frequent criticism of past development assistance has been the inability to measure program results in ways that permit aid managers to shift resources from failing efforts to productive activities. The President's bill emphasizes the need for creating systems to assess results. Sustainable development programs, the legislation states, will be concentrated in countries on the basis of need, government commitment to sound development policies, and the probability of effective use of assistance. Good governance principles -- transparency and accountability -- an independent judicial system, active public interest groups, free media, and democratically elected local government officials also appear to be important criteria for deciding which countries will be the largest aid recipients.

Development Fund for Africa. Chapter 2 of the sustainable development title highlights development needs in Africa, but repeals separate authorizing legislation for African aid programs. Recognizing the serious economic and social problems and special development challenges facing Africa, Congress initiated in 1987 a separate program for Africa -- the Development Fund for Africa (DFA). The DFA, authorized as an amendment to the FAAct, provided both more specific focus and greater flexibility for AID implementation of projects in Africa, and in subsequent appropriation acts, Congress earmarked specific amounts of funds (about \$300 million in recent years) for DFA activities.

The PPDAct, as submitted by the President, acknowledges Africa's special needs and calls for the continuation of the DFA's focus on the poorest segments of the population. Program flexibility would be broadened to some degree by continuing the waiver of Buy America procurement requirements for African projects and by permitting an exemption from the "Brooke amendment," a provision banning aid to countries that are more than one year in debt arrears to the United States. The proposed bill ties programs in Africa to the four principles of sustainable development and repeals existing DFA law. The legislation, however, in keeping with an effort to reduce earmarks, does not authorize a separate account for Africa, but rather allows general sustainable development funds to finance projects in the region. Foreign aid appropriation acts approved during the past seven years have included a discrete line-item amount for the DFA, as have reported but unenacted authorization bills.

Related sustainable development programs. The Administration's proposed bill also recognizes several other foreign aid programs justified on the basis of the overall goal of sustainable development: U.S. contributions to the World Bank and other international financial institutions; the Peace Corps, the Inter-American and African Development Foundations; and portions of the PL 480 food aid program. In an apparent effort to retain the independence of these activities (especially the Peace Corps and the Foundations), and to avoid jurisdictional disputes among Federal agencies (Departments of State and Treasury, for example) the legislation simply identifies how such programs

might contribute to sustainable development, but leaves in place separate authorization statutes for each activity.

Building Democracy -- Title II

- Sets out objectives and purposes of general U.S. Government programs supporting democracy, including those for countries in transition
- Includes policy statements regarding aid to the former Soviet Union and East Europe, but leaves in place current law that directs these programs

Title II of the Peace, Prosperity and Democracy Act of 1994 authorizes U.S. assistance in support of democracy around the world. While sustainable development programs are aimed, in concept, at solving global problems, democracy activities are targeted more directly to promote U.S. interests in specific countries, representing the equivalent of regional earmarks for high priority recipients. Programs are divided into three areas, each with its own authorization: democracy building efforts in countries making the transition to a democratic society, assistance to the former Soviet Union, and aid to Central and Eastern Europe.

Programs for countries in transition focus on emerging democratic states, in some cases those that have recently resolved internal strife. The bill permits the programming of all types of assistance -- economic and military -- to build democratic institutions, address political, economic and humanitarian considerations, and confront security threats that might reverse the move towards democracy. The bill does not, however, include language authorizing aid to the former Soviet Union and to Eastern Europe beyond a statement of policy. U.S. assistance to the former Soviet Union and to Eastern Europe would continue under the direction of the FREEDOM Support Act and the Support for East European Democracy (SEED) Act, respectively. The Administration decided that since these two laws had been recently enacted, the statutes would remain as the guiding legislation and not be incorporated into the new legislation.

Like the previous title on sustainable development, the section on democracy promotion acknowledges, but does not authorize or impinge upon related efforts conducted elsewhere by the U.S. Government. Information and exchange programs operated by the U.S. Information Agency are cited as activities that should support the overall goal of democratization abroad.

Promoting Peace -- Title III

- Successor to many current security assistance programs
- Authorizes general assistance consisting of both economic and military programs
- Confronts global concerns of peacekeeping, non-proliferation, drug trafficking, terrorism, and crime
- Supports regional peace efforts, including the Middle East

Title III, promoting peace, represents a consolidation of several current foreign aid activities, plus the incorporation of a few new programs. This appears to be the closest successor to current security assistance programs -- including the Economic Support Fund, Foreign Military Financing, International Military Education and Training, International Narcotics Control, and Anti-Terrorism programs -- although democracy programs authorized in title II also contain large elements of traditional security aid. Title III is organized into four principle areas: peacekeeping, nonproliferation, regional peace and defense cooperation, and international narcotics, terrorism, and crime prevention. It combines a global issues approach -- peacekeeping, nonproliferation, drugs, terrorism, and crime -- with a regional and country emphasis principally focusing on the Middle East.

Chapter 1 on peacekeeping brings together for the first time all peacekeeping authorities under the same legislation. Currently, the FFA Act authorizes U.S. voluntary contributions for peacekeeping, a relatively small (\$76 million in FY1994) and limited aspect of international peacekeeping. The larger assessed contribution (\$402 million in FY1994), contained in the biennial State Department authorization acts and annual Commerce, Justice, State, and Judiciary appropriation bills, is not part of the foreign aid budget. Voluntary and assessed contributions are combined in the proposed bill. The PPD Act allows the President to transfer funds between assessed and voluntary accounts and to draw from the inventory of any Federal agency up to \$100 million per year to meet unforeseen peacekeeping emergencies. Current law (sec. 552(c), FFA Act) limits annual drawdowns to \$25 million.

Chapter 2 -- the Nonproliferation and Disarmament Fund -- incorporates similar authorities currently found in the FREEDOM Support Act, creating a non-proliferation and disarmament fund. In addition to amounts otherwise authorized, the bill would add a new provision permitting the President to draw from the inventory of any U.S. agency up to \$100 million annually in support of the fund's objectives.

Perhaps the cornerstone of title III, and where the largest amount of funds are allocated under the proposed FY1995 international affairs budget, is chapter 3 concerning regional peace, security and defense cooperation. The statement of policy finds that regional conflicts remain a threat to the United States, but

that ethnic strife and competing territorial claims have replaced communism as the chief factor sparking such conflicts. It further notes recent progress towards peace in the Middle East where the United States has vital interests. Assistance, apparently of any type, can be provided for three purposes: to resolve conflict, to counter security threats, and to promote collective security efforts. The proposed legislation provides limited details on how funds would be programmed, yet offers the President broad authority to extend assistance to meet economic, political, and security needs. Provision is made, however, for Congress to authorize and appropriate military assistance programs administered by the Department of Defense separately, thereby allowing lawmakers to set the respective levels of economic and military in support of chapter 3 activities. Nevertheless, the Administration's bill cautions that in extending defense cooperation aid, the President should also take into account the preference to encourage a reduction in defense expenditures and an increase in economic development as regional threats decline. For several years, many in Congress have urged the President to promote limits on global arms transfers, especially to the Middle East.

The final chapter in title III consolidates existing authorities in the FAAct to undertake international narcotics control and anti-terrorism programs, and adds new authority to assist international crime prevention activities. The legislation incorporates many current restrictions and limitations on anti-narcotics aid, but in a somewhat abbreviated manner. Extensive reports on program activities and the extent of drug-producing country cooperation currently required by Congress would be replaced by a general annual report on international drug production and trafficking, and U.S. efforts to curb illicit activities. (Drug and other reporting requirements are set out in title VII of the act.)

Providing Humanitarian Assistance -- Title IV

- Consolidates existing refugee and disaster aid programs
- Expands the source of funding from which the disaster account can borrow in order to meet unforeseen emergencies
- Authorizes rapid-response reconstruction and institution building activities for countries emerging from crisis

The fourth major foreign aid objective -- humanitarian assistance -- incorporates two existing programs with only few changes in purpose and authorities. Regular and emergency refugee programs, currently authorized by the Migration and Refugee Assistance Act of 1962 and debated as part of biennial State Department authorizing acts, would be folded into the new legislation. The Administration's bill removes the present \$50 million cap on the size of the emergency refugee fund. Disaster assistance programs administered by AID continue under this title. The bill retains a \$50 million borrowing authority for disaster responses, but permits the President to borrow

from any account in the act rather than only from economic aid programs as currently permitted under the FAAct. This increases significantly the funding "pot" that could be tapped for emergency relief activities. In FY1994, for example, the roughly \$5.5 billion available under current law from which to borrow would rise to over \$10 billion, making it easier to find additional resources and potentially reducing the impact on programs from which funds were drawn.

Another new feature under disaster assistance programming is the authority to use some of the funds for post-crisis transition reconstruction and institution-building. This initiative, which is designed to bridge a gap in AID capabilities between strict disaster relief and long-term development activities, will target countries that are emerging from the effects of natural or manmade disasters, or making a rapid transition from authoritarian to democratic political systems.

Title IV further notes a third humanitarian aid program -- PL 480, Title II emergency food assistance -- but does not consolidate authorizing legislation into the new legislation. PL480, initially enacted in 1954, routinely is reviewed and amended by Congress every five years during consideration of the Farm Bill.

Promoting Growth Through Trade and Investment--Title V

- Authorizes two existing programs: OPIC and TDA
- Draws a more explicit connection than current law between economic aid and U.S. commercial interests

Like the previous title, trade and investment promotion activities found in title V of the PPDAct merge two existing programs into a single statutory location. The bill revises and updates text authorizing the Overseas Private Investment Corporation (OPIC), a program that offers political risk insurance to American businesses investing in developing countries. When determining where to extend investment insurance and financing, the modified language requires that special consideration be given to "promote United States exports and increase United States economic growth" along with the economic and social impact in developing -- especially the poorest -- nations. This elevates, compared with current law, the importance of links between OPIC programs and U.S. commercial goals. Title V also authorizes the Trade and Development Agency (TDA) with few changes. TDA, among other things, finances development project feasibility studies undertaken by American firms overseas.

The trade and investment title further states congressional findings regarding two other export promotion programs that are also intended to complement broad sustainable development goals. Title I of PL 480 offers low-interest financing for sales of U.S. food surpluses, expanding American markets and helping combat world hunger. The Export-Import Bank, which the

legislation notes is not a foreign aid program, extends direct loans, loan guarantees, and insurance for U.S. exports, in many cases exports to the developing world. Each of these two programs have their own authorizing legislation which the bill leaves intact.

Although title V is essentially a consolidation of existing programs, the creation of a separate title for trade and investment in itself makes for a far more explicit connection between economic assistance and U.S. commercial interests than under current law. The FAAAct includes Buy America requirements, as well as sections creating an International Private Investment Advisory Council on Foreign Aid and encouraging AID to use American firms in capital project development. But title V of the PPDAct, stating that the "twin tracks of commercial engagement and longer-term sustainable development represent complementary means of advancing United States interests", is a stronger and clearer statement than currently exists concerning the role and priority of export promotion within the foreign aid program. This sense is further underscored by Secretary Christopher's statement accompanying the FY1995 foreign policy budget request that promoting U.S. prosperity through the programs authorized in title V "is the central objective of the Clinton Administration and at the heart of our foreign policy."⁸

Advancing Diplomacy -- Title VI

- States the role of diplomacy in achieving objectives of the five previous titles

Advancing diplomacy is a very brief title in the proposed legislation having no programmatic elements. Instead, it contains a series of congressional findings that articulate the role of diplomacy in achieving objectives expressed in the five previous titles. The final "finding" identifies four requirements for successful diplomacy: Presidential authority to use funds flexibly; foreign aid, public diplomacy abroad, and a national consensus supporting American foreign policy; modern technology and infrastructure to support U.S. professionals; and better harmonization of foreign policy tools and organizations.

⁸ U.S. Department of State. FY1995 International Affairs Budget Request, Feb. 7, 1994, p. 1,

Special Authorities, Restrictions, Reports and Administrative Provisions -- Titles VII-IX

- Broadens significantly Presidential flexibility in foreign aid program management
- Consolidates aid restrictions into seven general categories
- Eliminates country-specific aid restrictions (except Pakistan)
- Expands President's most powerful waiver authority
- Allows for a proportional reduction of earmarks
- Streamlines congressional notification system of program changes
- Establishes AID as an agency
- Repeals most of the FAAct and other foreign aid laws

The final three titles (VII through IX) of the President's bill revise significantly existing authorities that govern the foreign aid program, including provisions addressing the often contentious issue of congressional-executive relations in the management of foreign assistance. A common goal of previous Administrations has been the repeal of a growing list of foreign aid "barnacles" -- legislative restrictions, conditions, reporting requirements, earmarks, and other congressional mandates added over time to the 32 year-old FAAct -- that Executive branch officials and some Members of Congress argue impede the President from utilizing most effectively the tool of foreign assistance. Setting aside arguments over the "proper" balance between Presidential flexibility and congressional oversight, nearly everyone agrees that streamlining current FAAct authorities is a critical element of the foreign aid legislative reform initiative. The extent of Presidential flexibility accorded by Congress, however, remains a significant point of disagreement.

The text of titles VII and VIII is largely drawn from legislation drafted by the Bush Administration and by the House Foreign Affairs Committee in 1991 (H.R. 2508). The conference report on H.R. 2508 granted some flexibility and repealed selected reporting requirements, but the legislation died when the House defeated the conference report. Significant changes proposed in the PPDAct's titles VII and VIII fall into five issue categories: restrictions on assistance; special Presidential waiver authority; earmarks; congressional

notifications; and agency responsibilities.⁹ (Title IX repeals obsolete and other provisions of law.)

Aid restrictions. The PPDAct in title VII removes all country-specific aid prohibitions -- with one notable exception -- and consolidates restrictions into seven general categories that prohibit U.S. assistance, and in some cases, arms sales and multilateral aid, directly to foreign governments (but not programs conducted by non-governmental or international organizations) that are:

- communist
- terrorist supporters
- formed by military coups
- in debt arrears to U.S.
- human rights violators
- drug producers/transit points
- expropriators of U.S. property

Current law includes all of these restrictions, although in varying degrees of similarity to the proposed language. The legislation allows the President to exempt the application of these prohibitions when providing the assistance would: be in the U.S. national interest; alleviate suffering from a disaster; directly benefit the needy; and help refugees and displaced persons. Title VII further applies conditions to police training and family planning assistance, restrictions covered under current law. Text banning aid to motivate or pay for the performance of abortion, and prohibitions on funds to support biomedical research on abortions and involuntary sterilizations, however, would be dropped from current law (FAAct, Sec. 104(f)).

What is different about the Administration's bill is the elimination of prohibitions on aid to certain countries -- Cuba, for example -- and conditions on assistance to other nations, like Greece and Turkey. The legislation contains only one exception to this principle. During executive-legislative consultations on an earlier version of the bill, some in Congress objected strongly to the proposed elimination of a specific ban on U.S. aid and arms sales to Pakistan because of nuclear proliferation considerations (Pressler amendment).

⁹ Earlier versions of the draft bill included another major change from current law concerning authority to transfer funds among titles and purposes of the act that raised significant objections during the 1993 consultation process. As proposed in November, the discussion draft deleted a ban (FAAct, Sec. 109) on transferring development assistance funds for purposes other than development activities. This would have broadened existing authority substantially by permitting the transfer of funds for any purpose, including the shift of economic to military assistance. The revised PPDAct retains the current law prohibiting the transfer of sustainable development funds for other uses. Remaining transfer authority in the proposed legislation generally tracks current law by allowing the President to transfer up to 10% of funds for any activity under the act to carry out any other purpose of the act (except from title I). The receiving account cannot be increased by more than 20%. General democracy programs under title II and peacekeeping activities under title III, however, are exempt from any limitation on the size of the transfer.

Administration officials accommodated these concerns by revising the PPDAct to incorporate existing law regarding aid restrictions for countries violating U.S. nuclear non-proliferation policy (Sec. 669 and 670, FAAct) and retaining the Pressler amendment concerning Pakistan.

In all other cases, however, country-specific restrictions are removed. This returns to the President considerable discretion regarding how and against whom to apply several of the seven general conditions. The legislation specifies factors that the President must consider on human rights matters, for example, but ultimately the President would retain broad discretion over invoking these provisions. Current law provides similar broad discretionary powers for the President, except in cases where Congress has imposed specific conditions or requirements for individual countries.

Much of the proposed text regarding aid restrictions mirrors language requested by President Bush and, to a certain extent, approved by House/Senate conferees in 1991 (H.R. 2508). Of all the conditions agreed to by the 1991 conference committee, only one provision is missing from the PPDAct list of restrictions: a statement banning aid for projects that would increase exports of agriculture, textile or apparel commodities and damage U.S. exporters. (The proposed bill includes similar text but makes it's application discretionary.) Like the new legislation, H.R. 2508 also included a "national interest" waiver, although it required a 15-day advance notification requirement absent from the proposed bill. A final change from current law proposed in the President's bill is to relax to a discretionary status the now-mandatory requirement (FAAct, Sec. 117(c)) for assessing the environmental impact of sustainable development programs.

Special Presidential waiver authority. The President currently retains a special authority (FAAct, Sec. 614) allowing him to furnish assistance and make arms sales regardless of restrictions imposed by virtually any foreign aid law. Current statute limits the amount of aid and sales that can be made annually under the waiver authority and requires the President to issue appropriate determinations concerning the importance to U.S. national interests. Because of the powerful nature of this waiver provision, it is used infrequently and usually only for very high priority matters or where circumstance have changed suddenly. The PPDAct includes a comparable section, with some modifications consistent with changes approved but not enacted in 1991 (H.R. 2508). Instead of applying only to the provision of aid and arms sales, the waiver would apply to "the taking of any action (or the refraining from the taking of any action)" without regard to foreign aid law restrictions.

Earmarks. Congressional earmarking of foreign aid funds for particular countries, organizations, or purposes has long been an area of intense dispute between lawmakers and Presidents. The Executive branch is particularly critical of earmarking when it comes on top of overall budget reductions made by Congress -- a situation that forces the President to apply cuts more severely to non-earmarked countries and activities. The new bill contains no earmarks except for regional set-asides for Eastern Europe and the former Soviet Union.

The bill further proposes language previously submitted, but rejected by Congress, permitting the President to reduce earmarks proportional to overall budget cuts enacted by Congress. This would lessen the impact of reduced appropriations on non-earmarked countries and programs, but result in aid levels lower than what Congress may have specified for high priority activities in an authorization act.

Congressional notifications and reports. The PPDAct reduces substantially the number and scope of foreign aid reporting requirements, long a goal of prior Administrations. In particular, the bill removes extensive details regarding the content of annual international narcotics reports (FAAct, Sec. 489), while retaining a "comprehensive report" on international narcotics production and trafficking, and on U.S. efforts to curb such illicit practices by March 1 of each year. Numerous other periodic reports -- those on tropical forests, biodiversity, U.S. contributions to international organizations, defense expenditures of aid recipients, Cyprus, AID contracts with U.S. small businesses, and infant feeding practices, to name just a few -- would no longer be required.

A further objective is to reduce and streamline information submitted to Congress justifying proposed budgets and programs, and notifying lawmakers when plans change. The Executive branch has been working with Congress for several years to revise the annual foreign assistance Congressional Presentation Document (CPD) as well as requirements for informing Congress of project modifications in advance of funding obligations. Congressional oversight committees receive over 800 notifications annually from AID concerning program changes, and lawmakers place "holds" on a few notices that block the obligation of funds pending consultation and the resolution of policy concerns.

The new bill proposes one significant change regarding congressional notices of program modifications, a change worked out during consultations with Congress in late 1993. Currently, the notification requirement for AID development programs is based on changes at the project level -- modifications, for example, that push the cost of a project higher or alter its scope from what was previously justified to Congress. Under the proposed legislation, notifications would move away from a project focus and instead be based generally on total country aid levels and the strategic objective of AID's programs in a given country. AID would notify Congress, for example, only when country, regional, or centrally funded sustainable development programs had not been previously submitted or exceeded amounts formerly notified, or when projects were shifted to support a new strategic objective. AID officials expect this to reduce the number notifications -- eliminating agency paperwork and possibly reducing the number of congressional "holds" -- yet still providing adequate congressional oversight of program changes.

Agency responsibilities. Similar to existing law (FAAct, Sec. 621), the PPDAct gives the President authority to delegate functions under the act to any U.S. Government agency or officer. The Secretary of State is tasked with "continuous supervision" of programs carried out in the bill, including the provision of military equipment. The Secretary of Defense continues to

maintain responsibility for determining weapons requirements, military procurement, delivery of equipment, and military training, among other things. A new feature in the bill is the establishment in law of AID as an agency under the foreign policy guidance and supervision of the Secretary of State. Currently, AID is authorized by executive order, not by the FFA Act. At the beginning of the Clinton Administration, the future of AID, an agency widely attacked for lacking direction, sound management, and leadership, was in doubt. Proposals made by critics included abolishing AID, to reducing significantly its responsibilities, or merging the agency into the State Department. The Clinton Administration decided to maintain AID as a separate agency, but to have it undergo considerable reorganization and restructuring, efforts currently underway by the new Administrator, Brian Atwood.

Policy Issues for Congress

Previous congressional reviews of foreign aid reform proposals -- whether originating in the Executive branch or on Capitol Hill -- have raised a wide range of policy concerns and questions as lawmakers tried to sort out 30 years of legislation, establish a new program rationale, adjust to a considerably different international environment, and define a new set of U.S. foreign policy interests and principles. Building consensus both within Congress and between the executive and legislative branches has proved especially difficult on an issue so traditionally unpopular at home as foreign assistance.

President Clinton's bill -- or any congressional substitute put forward -- is expected to be controversial and subject to extensive modification. As Congress and Administration officials consult on what the final shape of the President's legislation will be -- the result of which will mark only the beginning of broad congressional consideration -- among the wide array of potential concerns and questions for Congress are: 1) the extent of real change represented by the new bill; 2) whether the legislation is sufficiently comprehensive; 3) the definition and content of AID's new mandate -- sustainable development; 4) how the bill addresses high priority aid recipients; 5) the increase of flexibility sought by the President; and 6) whether budget resources are adequate to support new program goals.

Does the Legislation Represent Real Change?

A basic question on which Administration officials are likely to be pressed is the extent to which the proposal reflects a fundamental redirection of U.S. foreign assistance policy. And, related to this, especially in the case of AID where there is a perception of an agency overloaded with too many responsibilities, what tasks will be eliminated?

Certainly the legislation reflects a new framework for foreign assistance and seemingly a new set of organizing principles. Instead of being built exclusively around an array of programs and country allocations, the PPDAct sets out five central goals or themes focusing on U.S. global interests and concerns that foreign aid projects are expected to support. Rigid lines drawn between using assistance for bilateral or multilateral purposes, and using economic or military resources to achieve program goals are removed to a large extent. The bill introduces new program authorities, such as international crime prevention and AID's Crisis Transition Initiative. For peacekeeping, it consolidates similar authorizations under a single statute. Consistent with the overarching Clinton policy goal to strengthen the American economy, the legislation highlights trade and investment objectives to an extent not found in current foreign aid law.

Nevertheless, skeptics question whether the "change" is more than a re-packaging of existing programs under new labels. Title I identifies four key components of sustainable development that the Administration says will replace the 33 or more current goals of U.S. economic assistance. But in stating the

objectives of the four components, the proposed bill mentions specific priorities - health, education, shelter, child survival, food security, sustainable agriculture, women's rights, among others -- all of which are among the 33 current goals. It is argued that nearly all AID projects -- designed under the present statutory framework -- could be justified within one of the four core elements of sustainable development.¹⁰ Except in one case, it is not altogether clear what responsibilities AID will drop to make way for greater concentration and focus. Export promotion and direct support for American business in developing countries, a growing but at times confusing agency emphasis since 1990, is an initiative that other agencies, such as OPIC, TDA, and the Export-Import Bank (as set out in title V) will oversee without explicit participation by AID. But elsewhere, it is difficult to identify other activities that AID will delete from its portfolio. What seems more apparent is the expansion of agency efforts in a few areas, especially in democracy promotion and crisis management.

A clear indication of whether the new legislation represents significant change may have to wait for completion of agency implementation guidelines and proposed budget allocations for FY1995. The President released on February 7 the broad outlines of his FY1995 budget, including requests for each of the five foreign policy objectives outlined in the PPDAct. The budget seeks increases for a number of activities, including sustainable development goals of population stabilization, environmental protection, democracy promotion, and contributions for multilateral development banks, as well as for peacekeeping and non-proliferation that support peace promotion activities under title III. Overall, the request seeks about \$16.6 billion for titles I-V, representing an increase from FY1994 of 2.5%. Details necessary to evaluate the extent of change proposed in the new budget, however, will not be available until later in February.

The Administration has intentionally composed a broad legislative framework document to avoid the extensive and detailed directives included in the current FFAAct and to maximize Presidential flexibility. But some in Congress may insist on greater specificity in the new bill or other evidence indicating substantial change in the purpose and programming of foreign assistance before agreeing to the proposed legislation.

Is the Proposed Legislation Sufficiently Comprehensive?

To many observers a fundamental deficiency of current foreign aid laws is the large collection of detached statutes authorizing individual assistance programs and other U.S. aid activities. Portions of military assistance are authorized in the Arms Export Control Act; food aid policy is set by PL480; U.S. participation in the World Bank and other international financial institutions is governed by the Bretton Woods and other related acts; and the Peace Corps, Inter-American Foundation, African Development Foundation, and the Export-

¹⁰ See, for example, remarks of Frank Conahan, U.S. General Accounting Office, before the House Foreign Affairs Committee. Foreign Aid Reform, hearing, July 26, 1993, p. 3.

Import Bank have their own separate statutes. Like the FAAct, some of these have not been overhauled for many years and contain out-dated provisions. Perhaps more importantly, this network of laws, because it is rarely examined by Congress as a whole, contains policy inconsistencies and is not well integrated. To overcome this, some have recommended that a foreign aid legislative reform effort should bring all programs under the same statutory umbrella.

Administration officials have termed the bill comprehensive. Upon examination, the legislation takes only limited steps to achieve a generally inclusive statute. The PPDAct could be seen as a comprehensive policy framework -- or a "Charter" as Executive branch officials have begun to call it -- that discusses all of the program "elements" but it does not regulate or integrate the network. The bill authorizes about the same activities now directed by the FAAct, with the addition of a few others. The legislation mentions additional programs that also serve major goals of a restructured foreign assistance approach. But the bill, in its current form, neither folds these authorizing statutes into a comprehensive statute, nor does it amend these related acts to ensure that they reflect the new purposes of U.S. foreign aid. Breaking down jurisdictional control among government institutions and removing agency independence -- as well as congressional committee jurisdiction -- is always difficult to achieve in reorganization and reform efforts.

Also related to the issue of comprehensiveness, is the fact that the PPDAct is a "framework" or "Charter" bill that represents one portion of the legislative process of setting policy and funding government activities -- a process that also includes the authorization and appropriation of funds. Although earlier versions of the foreign aid reform legislation included language authorizing appropriations, the bill submitted February 2 provides in titles I-V that funding will be available "as authorized and appropriated to the President each fiscal year." Apparently, the Administration would prefer Congress to address policy issues only in debate over the PPDAct, and to consider money questions in two separate authorization and appropriation measures. Most foreign aid programs are currently financed within annual Foreign Operations Appropriations. With the absence since 1985 of passage of foreign aid authorizing bills, the Foreign Operations spending measure has become the primary tool for Congress to decide annual funding and policy matters. Implementing a comprehensive and consistent foreign assistance program, therefore, will require both a new FAAct and compatible authorization and appropriation acts.

Does the Bill Adequately Integrate Throughout and Define the Concept of Sustainable Development?

"Sustainable development" has emerged over the past decade as perhaps the most popular term for a new international development assistance strategy. A key question that congressional proponents of sustainable development are likely to raise concerns the relationship of the goal of title I with the other four foreign aid objectives. Some had expected sustainable development to be *the* overarching foreign aid goal, representing a thematic thread running throughout

all types of assistance authorized in a new legislative framework. This is especially relevant for assistance provided under titles II and III of the act -- those promoting democracy and peace -- which are certain to include population, health, environmental, economic growth, and other considerations emphasized under sustainable development. The extent to which these efforts are integrated with and will support sustainable development is not clear in the proposed legislation.

Clearly defining what is meant by "sustainable development" may also be an issue in congressional debate. Most agree that the concept emphasizes the need to assess particularly how development activities impact the environment, whether such efforts will have long-term, lasting effects, and whether they will include wide participation. Sustainable development, however, has been subjected to broad interpretation within the development assistance community, and reaching agreement on a precise operational definition has been difficult.

The Administration's proposed legislation includes a similarly broad definition of sustainable development as signifying "broad-based, economic growth which protects the environment, enhances human capabilities, upholds democratic values, and improves the quality of life for current generations while preserving that opportunity for future generations." Sustainable development, under the bill's framework, will be supported through the four inter-dependent objectives of economic growth, environmental protection, democratic participation, and population growth stabilization. AID released in January an overview policy statement on sustainable development and strategy papers for the four objectives that represent a refinement and clarification of the overarching goal of sustainable development and the means to achieve it.

Congressional proponents of sustainable development, however, may want to see a much greater amplification of the term written into a new foreign aid law itself in order to reduce the risk of varying interpretations and to specify programmatic priorities. Drawing ideas from AID policy and strategy papers or from previous congressional initiatives, such as H.Con.Res. 100 -- a resolution introduced on May 12, 1993 urging the President to redirect U.S. foreign aid programs toward a sustainable development strategy -- are possible options. Making hunger and poverty reduction an explicit objective of sustainable development is something that some Members are likely to recommend. The legislation refers in a few places to poverty and incorporates efforts targeted on poor populations within the goal of broad-based economic growth, but does not make poverty reduction a specific objective.

How Does the Bill Address High-Priority Country Recipients?

Current foreign aid legislation accords special priority status to a few countries and regions through funding earmarks, appropriation line items, and separate statutory authorization. Israel and Egypt, through appropriation earmarks, have been the largest recipients of U.S. aid since the late 1970s. Congress approved separate legislation (FREEDOM Support Act) and established a distinct appropriation line item for the Newly Independent States

(NIS) of the former Soviet Union, the next largest aid recipient in FY1994. Assistance for Eastern Europe is governed by the SEED Act and funded as a separate appropriation line item. U.S. aid to Africa is also authorized as a distinct title in the FAAct (Development Fund for Africa--DFA) and appropriated through a line item.

The PPDAct proposes several changes -- although most appear modest -- in the way Congress authorizes programs for these high priority recipients. Israel and Egypt are not earmarked for specific amounts of aid, but President Clinton has assured both countries that there will be no reductions for FY1995. Promoting the Middle East peace process -- for which assistance to Israel and Egypt will continue to play a key role -- is one of the major purposes for funds authorized in support of regional peace, security and defense cooperation in title III. The proposed bill's approach for assistance to the NIS and Eastern Europe would change little from current law. The legislation maintains separate authorizations for the NIS and Eastern Europe under specific subchapters in title II, and retains the FREEDOM Support Act and SEED Act as the guiding legislative authority for the two regions.

For Africa, the Administration's bill suggests significant changes from current law. In title I, the reform legislation notes the special development needs of Africa and proposes to follow the purposes of the DFA. Language establishing the DFA, however, would be repealed along with most of the FAAct. Moreover, African aid funds would no longer be authorized separately, but as part of worldwide sustainable development financing. Congressional proponents of the DFA fear that the co-mingling of aid funds for Africa with those for other regions and purposes will result in a reduced U.S. commitment to Africa and jeopardize the continuation of roughly \$800 million in annual appropriations.

How Much Presidential Flexibility Should Congress Accept?

It is clear that Congress has responded partially in recent years to Administration calls for greater Presidential flexibility in managing the foreign aid program. And, the proposed bill relaxes restrictions, eliminates reporting requirements, and grants some new powers to the President that Congress has endorsed in foreign aid bills debated but not enacted since 1989. However, Congress has considered and rejected other Administration requests for broader program management tools that are proposed in the new legislation. Although the Administration seeks considerably new flexibility, it does not in this draft offer improvements in the current ad-hoc executive-legislative consultation system -- steps that might enhance congressional oversight and informal participation in foreign aid decision making.

Among changes likely to be most controversial are the elimination of earmarks and country-specific prohibitions.¹¹ Congressional proponents of

¹¹ Some of the controversy over the removal of country-specific prohibitions was reduced when the Administration decided to include the Pressler amendment in the submitted legislation. Restrictions on aid for other countries

such provisions believe that earmarks and legislative conditions play a constructive role in establishing Congress' foreign aid priorities. Some lawmakers who feel strongly that the United States should not associate with certain governments because of human rights violations, illicit drug production, or other factors listed in the seven generic aid prohibition categories feel that country-specific prohibitions are necessary to ensure that the President will respect Congress' view. For them, the generic conditions that guide Presidential decisions on blocking or conditioning aid are too general, and their view is that Executive determinations to continue assistance, in some cases, should be based on circumstances unique to the individual country.

With diverse interests among different congressional committees and Members, forging a consensus across Congress and between the two branches on the scope of program justification and notification materials is also likely to be difficult. Congressional critics emphasize that until the President can demonstrate that foreign assistance is achieving intended results and directly serves U.S. interests, they are unwilling to eliminate earmarks and reduce notification requirements. An important initiative of the 1989 Hamilton/Gilman foreign aid reform effort was the requirement for a significantly improved accountability mechanism and a rigorous annual assessment for Congress on achievements of the four basic program goals. The PPDAct notes that the United States will "establish open and transparent systems to monitor the results of its assistance" and requires the President to annually report to Congress the results of sustainable development in each country and how U.S. interests and objectives were served.

Of equal concern for many in Congress is the absence, with only a few exceptions, of detailed language discussing how the assistance will be programmed. The legislation includes extensive statements of broad program policy objectives, but lacks in many areas specific language regarding the purposes and activities for which aid funds will be spent. This seems most apparent in title III regarding the promotion of regional peace, security, and defense cooperation. Under the bill's language, the President could furnish whatever type of economic and military assistance is deemed appropriate to further Middle East peace, confront regional and internal conflicts and meet other "political, economic, and humanitarian threats to security," and assist countries to share the burden of collective peace and security efforts. This represents far broader Presidential authority in providing security-related assistance than under current statutes.

The "issue approach" taken in the bill without indicating the breakdown between multilateral and bilateral assistance may raise concerns for some lawmakers. Current law contains a specific authorization for U.S. voluntary contributions to international organizations, including the U.N. Development

are routinely enacted in annual appropriation measures -- many times over Executive branch objections -- and some Members may wish to incorporate similar provisions into the PPDAct or in subsequent laws authorizing or appropriating funds.

Program, UNICEF, and the International Atomic Energy Commission. The PPDAct neither contains a separate authorization for these organizations, nor does it identify under which titles contributions, if any, would be drawn. Presumably, most would fall within the sustainable development objective of title I.

Like the multilateral/bilateral issue, earlier versions of the draft bill also did not distinguish between economic and military assistance that would be provided in support of each of the titles. This prompted strong objections from some lawmakers, especially for the goals of advancing democracy and promoting peace. Congress in recent years has criticized proposed military aid budgets, and has shifted funds in some instances to economic purposes. Addressing this concern, the PPDAct includes in titles II and III language stating that Congress will set a separate authorization for assistance administered by the Department of Defense in support of democracy and peace objectives.

Will Adequate Budget Resources Be Available?

The size and distribution among programs of the foreign aid budget is not an issue raised in the Administration's bill. As drafted, the President will need two separate pieces of legislation to establish funding ceilings (authorization), and specific program amounts (appropriations). Congress could choose, however, to incorporate authorization levels into the PPDAct.

Nevertheless, budget decisions play a major role in foreign aid policy debates such as that anticipated in 1994. And, although authorizing bills do not set the exact level of funding, Congress can establish general budget priorities through the legislation by authorizing program ceilings above, below and other than those proposed by the President.

Following a significant cut in the FY1994 foreign aid budget, some are questioning whether any meaningful policy framework and set of objectives can be supported adequately within a declining resource base. They stress that creation of a restructured program strategy and enactment of new legislation are meaningless if not accompanied by sufficient appropriations.

The FY1995 budget requests \$14.5 billion for programs traditionally defined as "foreign aid," although the President's budget restructures foreign policy spending around the new set of objectives set in out in titles I-VI of the PPDAct. While representing an increase of \$870 million, or 6%, over current levels, most of the rise in foreign aid is to cover current U.S. commitments and prior year arrearages to the World Bank and other multilateral development institutions. For new initiatives, the budget seeks increases for sustainable development goals of population (+17%) and the environment (+20%), and for narcotics/terrorism programs (+47%).

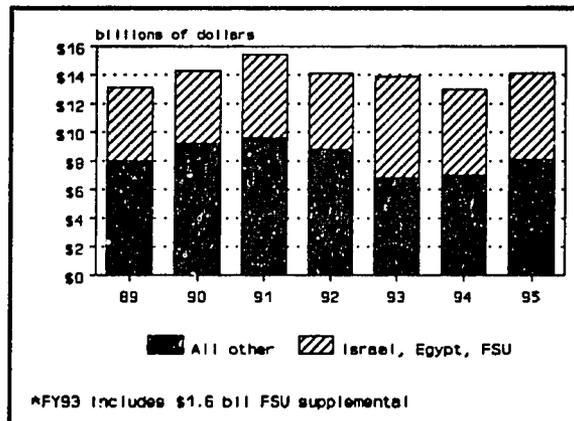
Most other activities, however, would be funded at or below FY1994 amounts, including AID and State Department spending on economic growth (-11%). Moreover, the FY1995 foreign aid budget falls far short in some areas

of what Secretary of State Christopher and other senior Administration foreign policy officials, during deliberations with OMB, reportedly argued were necessary to support the new goals outlined in the PPDAct. In a November letter to OMB, Secretary Christopher asked for a \$1.4 billion increase for sustainable development programs, a \$1.2 billion rise for promoting peace, and a \$640 million increase for building democracy.¹² The State Department apparently received partial accommodation -- the FY1995 budget increases sustainable development by \$600 million, peace activities by \$250 million, and democracy programs by \$95 million.

Since peaking in FY1985 at \$18.7 billion, Foreign Operations appropriations have declined sharply. Between FY1989 and FY1993, funds averaged about \$14 billion.¹³ Congress cut resources further for FY1994 -- to \$13 billion. It is not only the decline in overall budget levels that worries foreign aid supporters, but also the way the shortfalls have fallen disproportionately on selected recipients and programs. While Congress reduced the President's FY1994 request by 10%, or \$1.4 billion, it approved the Administration's full recommendation for Israel, Egypt, the former Soviet Union, and the Peace Corps, and increased slightly amounts for refugee assistance. Combined, these high priority elements totalled \$6.9 billion, more than half of the entire Foreign Operations bill. Remaining funds fell 17% short of requested amounts for all other programs. For selected countries and regions, the cuts were more severe: levels proposed for economic programs in Asia fell by about 25% and in Latin America, by over 40%; military aid to Latin America totalled one-third of the requested amount.

For FY1995, assistance supporting Middle East peace and democratic transition in the NIS will not be cut. After setting aside \$6 billion for Israel, Egypt, and the NIS, \$8.1 billion would remain for all other aid programs included in the Foreign Operations appropriations, as illustrated in Figure 1. This

Figure 1
FOREIGN OPERATIONS APPROPRIATION
FY1989 - FY1995 (proposed)*



¹² See, "Crisis Prevention," by Dick Kirschten, *National Journal*, December 11, 1993, p. 2942; and "Christopher lobbying for \$3 billion more in foreign aid," *Washington Post*, Dec. 17, 1993, p. A12.

¹³ Special Persian Gulf war assistance for Israel and Turkey in FY1991 pushed aid levels to \$15.4 billion in that year. The average figure also excludes \$1.6 billion in FY1993 supplemental appropriations for the former Soviet Union, nearly \$1 billion of which came from defense department funds.

would be over 16% less than funding available as recently as FY1991. At the same time, however, the FY1995 budget provides \$1.1 billion more than currently available for activities other than Israel, Egypt, and the former Soviet Union. Nevertheless, new priorities, such as assisting Palestinian development efforts, and unanticipated international emergencies that seem to arise in most years may place further strains on the Foreign Operations budget and make for difficult congressional decisions.

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