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TITLE-BY-TITLE ANALYSIS S. 2420

INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1978

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TITLE-BY-TITLE OUTLINE

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INTRODUCTION

S. 2420, the International Development Cooperation Act of 1978, was introduced on January 24, 1978, by Senators Sparkman and Case. It would replace the Foreign Assistance Act of 1961, as amended (the "FAA") as the major statement of the policy, organization, and procedures by which U.S. development efforts will be administered. The bill was prepared by the staff of the Senate Foreign Assistance Subcommittee at the direction of Senators Humphrey and Case.

The following preliminary analysis has been prepared by the Office of the General Counsel, Agency for International Development, to provide an initial understanding of the bill. It is not intended as a comprehensive review of all of the legal issues presented. This analysis is based on Committee Print No. 2 dated January 23, 1978.

SUMMARY

The International Development Cooperation Act of 1978 (the "bill") would establish an independent Administration to consolidate the various components of U.S. foreign economic assistance. It also outlines an overall economic development policy as a high priority for the United States.

The new International Development Cooperation Administration ("IDCA" or the "Administration") would be responsible for:

-- the bilateral aid program;

-- policy oversight for the U.S. interests in the World Bank Group, and in the regional development banks;

-- the coordination of U.S. participation and contributio to various United Nations technical and humanitarian organizations;

-- U.S. food aid for development and disaster relief purposes under P.L. 480;

-- the Peace Corps;

-- U.S. Government support for development activities carried out by private and voluntary organizations (PV

-- the Overseas Private Investment Corporation (OPIC), and other investment guaranty programs; and

-- reimbursable development programs.

The Administration would be a permanent organization with an Administrator who would be under the supervision and direction of the President. The bill provides that its provisions shall not be construed so as to infringe on the powers of the Secretary of State. The Administration would have a staff composed primarily of International Development Officers, a new personnel category established for the administration of foreign assistance, both in the U.S. and abroad. Employees of A.I.D. would be statutorily transferred to the new Administration. The President would have authority to transfer employees, funds, and property from other organizations which currently handle functions which will be transferred to the new Administration.

While consolidating responsibility for coordination of and policy guidance for a variety of development functions under the new Administration, the bill would permit considerable administrative autonomy for certain existing organizations. For example, OPIC would remain a Government Corporation, but would become a "constituent element" of IDCA, under the policy guidance of the Administrator. Similarly, the Peace Corps would be "a part" of the International Development Institute (IDI), a new organization within IDCA. The IDI would be responsible for U.S. government support of the development activities of PVOs and for the Peace Corps.

The bill makes no provision for military assistance. It does establish an Economic Support Fund which would provide resources for most programs now funded under Security Supporting Assistance. (Economic assistance related to base rights would be handled elsewhere.) These programs would continue to assist the Middle East and Southern Africa. The Economic Support funds would be required to be administered with a view to long term economic development, and to the mandates of bilateral development assistance, to the maximum degree possible.

The policy directions declare that a more forceful development effort is needed which focuses on the poor majority, growth with equity, respect for individual rights, and the integration of the developing countries into an open and equitable international economic system.

The bill, by repealing the FAA, would eliminate many outdated provisions and restrictions which over the years have been added to it. A few freestanding sections remain unrepealed dealing with matters which would not be the responsibility of the new Administration.

A title-by-title analysis follows which describes the provisions of the bill in greater detail.

CHAPTER I - POLICY

Chapter I contains two sections, General Policy and Development Assistance Policy. Section 101, General Policy, restates and sharpens two premises contained in Section 102 of the FAA:

-- one, that the interests of the people of the U.S. are best promoted in a world which recognizes civil and economic rights and which contains an open and equitable international economic system; and,

-- two, that the American people have a humanitarian commitment to assist the people of developing countries.

Based on these premises, the Section outlines a "development cooperation policy", which has four major goals:

-- assistance to the poor majority;

-- economic growth with equitable distribution of benefits;

-- respect for individual civil and economic rights; and

-- integration of the developing countries into an open and equitable international economic system.

Specific policies relating to the implementation of the goals of the general policy statement are contained in Section 202. These do not depart significantly from provisions contained in the FAA. Among other things, they provide that development is dependent upon each country's efforts and that assistance should be adapted to the particular situation in each country. They also provide that development assistance should continue to focus on basic human needs and growth with equity.

The IDCA is established by section 102.

CHAPTER II - BILATERAL DEVELOPMENT ASSISTANCE

Title I - Grant and Loan Assistance (Sections 201-209)

The authorizations for development loans and development grants have been combined into one title, thus eliminating much redundancy, as well as the separation in the handling of loan and grant funds that formerly existed in the FAA. In fact, much of Chapter 2 of Part I of the FAA has been eliminated, including, for example, such vintage provisions as the Development Loan Committee and the Alliance for Progress as well as barnacles such as FAA section 218, "Fish and Other Protein Concentrates".

The functional accounts, on the other hand, are continued in much the same form as in the FAA, although an attempt has been made to use more concise language and to eliminate unnecessary provisions. This is true particularly in section 201 on bilateral development assistance policy. It continues the "New Directions" policy guidance, but sets it forth in more striking and concise form.

The requirement for costsharing contained in FAA section 110 is retained in section 207 of the bill, but the flat 25% formula has been deleted. Instead, the recipient country must make a "significant contribution" to projects and programs to which bilateral U.S.G. assistance is furnished. The contribution may be financial or "in kind".

In section 207(b), the time limitation on disbursement of grant assistance for a project has been extended to four years instead of three, and the requirement that efforts be made to obtain funding from other foreign donors has been deleted.

The bill contains a new section 208 on relatively least developed countries (RLDC). Recognizing that RLDCs require special consideration, the bill authorizes and encourages grant assistance for RLDCs to the maximum extent that is consistent with United States development objectives (as is provided in subsection 102(e) of the FAA). In addition, on a case-by-case basis, and notwithstanding the prohibitions on debt relief, the Administrator may waive interest payments on past indebtedness and may allow payment of principal to be made in local currency and used by the RLDC, with IDCA approval, for activities which are consistent with the new directions policies of section 201 of the bill. The cost-sharing requirements may still be waived for RLDCs, as well as the time limit on disbursement of grant assistance for a project. Also, otherwise applicable procurement requirements, including source, may be waived for RLDCs, "in concert with other donors".

Section 205(a)(7) of the bill, which authorizes appropriations for selected development programs, includes express authority for programs addressed to "physical infrastructure" in relatively least developed countries. In addition, section 202, which authorizes programs relating to agriculture and food production, rural development, and nutrition, continues the authorization currently contained in section 103 of the FAA for programs of rural infrastructure.

Section 206 of the bill contains an authorization for assistance to United States research and education institutions. This authorization is identical to section 211(d) of the FAA.

Title I also contains in section 209 an authorization for the Sahel Development Program that is essentially identical to that contained in section 121 of the FAA.

Title II - Strengthening Institutional Capacity for Agricultural Development (Sections 221-225)

This title, which is designed to include the land and sea grant universities in the development effort, is virtually identical to Title XII of the FAA. No attempt has been made to change the organization or function of the Board for International Food and Agricultural Development. Title XII programs would continue to be exempt from the funding limitations on section 206 (211(d) of the FAA) programs.

Title III - Agricultural Commodities for Peace and Development (Sections 231-233)

This title codifies existing practice by providing in section 232 that the Administrator shall be responsible for performing the development and humanitarian functions of Title II of PL 480. Also, in section 233, it assigns PL 480 Title III responsibility, for which no Executive Order has been issued, to the Administrator. The bill recognizes that food assistance is a significant element of overall international development strategy and that such assistance should be furnished in coordination with other development activities authorized under the bill.

CHAPTER III - ACCESS TO PRIVATE CAPITAL AND TECHNICAL EXPERTISE

Title I - General Policy (Section 301)

This Title declares the importance to development of private capital and expertise, which should be increasingly used as countries expand their economies, and which should reduce the dependence of developing countries on external development assistance. The Title also notes that loan and investment guarantees and reimbursable services under the bill can facilitate the transition from concessional assistance to reliance on the international private sector.

Title II - Overseas Private Investment Corporation (Sections 311-320)

This Title continues the existence of the Overseas Private Investment Corporation (OPIC), but makes it a "constituent element of the Administration", under the policy guidance of the Administrator. OPIC is currently an independent government corporation, subject to the policy guidance of the Secretary of State. The basic structure of current provisions of the FAA (sections 231-240A) relating to OPIC has been adopted, but with modifications to relate OPIC activities more closely to the objectives of U.S. development assistance. These changes are those adopted by the Senate in its consideration of the 1978 authorization legislation for OPIC. Under these changes:

-- OPIC would be required to give preference in issuing guarantees to projects which complement U.S. development assistance programs and projects;

-- loans for ore extraction (up to $4,000,000 a year) would be permitted, as would surveys for ores (up to $200,000 a year);

-- limitations on guarantees for credit unions are removed and

-- additional coverage is permitted to take into account changes in corporate asset values due to changes in the value of the dollar.

Also of note is section 317(e)(1) of the bill which stipulates that no payments may be made for a loss where a federal agency or U.S. court has determined that the investor is responsible for an act of bribery relating to the project. Also, section 320 provides that OPIC's annual report to Congress must contain an assessment of the economic and social impact and benefits of OPIC operations, and how they complement U.S. development efforts.

Title III - Housing Investment Guaranties (Sections 331-333)

Except for the policy statement, the Housing Investment Guaranty program (HIG) and related authorities of the FAA have been adopted without major change. The policy statement in the bill (section 331) has been recast, however, to provide that particular attention be given to programs which will support pilot projects or have a maximum demonstration impact on local financial institutions. Special reference to housing programs in Latin America (section 221 of the FAA) is omitted. Guaranty programs may continue until September 30, 1980. Authority is provided in section 333 to invest fee income in interest bearing securities or obligations of the United States Government as the Secretary of the Treasury determines to be appropriate. Income from such investment is authorized to be used for necessary administrative purposes of the HIG program. The bill omits the requirements of section 223(j) of the FAA that HIG programs be limited to countries receiving development assistance and that HIG programs complement development assistance programs. It also contains specific authorizations for HIG programs in Israel, Portugal and Leganon (identical to section 223(j) of the FAA).

Title IV - Agricultural and Productive Credit and Self-Help Development Communities Program (Section 341)

Section 341 of the bill adopts, without major change, the authorities of section 222A of the FAA to issue guaranties to private lending institutions in not more than 5 Latin American countries to enable them to make loans to groups or individuals unable to obtain credit for agricultural and productive and self-help development community programs. The section continues to permit the use of fees to defray the administrative costs of the programs.

Title V - Reimbursable Services and Commodities (Sections 351-354)

The authority in section 607(a) of the FAA to provide services and commodities to friendly countries, international organizations and voluntary organizations on an advance of funds or reimbursable basis, is adopted without change in section 351 of the bill.

The authority to use foreign assistance funds to stimulate reimbursable development programs in friendly countries, as provided in section 661 of the FAA, is increased from $2,000,000 to $5,000,000 in section 352, but the bill deletes reference to facilitating access to natural resources of interest to the U.S.

The excess property provisions of section 607(b) and 608(b) of the FAA are contained essentially unchanged in section 353 of the bill; FAA section 608(a), relating to advance acquisition of property becomes section 354 of the bill.

CHAPTER IV - MULTILATERAL DEVELOPMENT ASSISTANCE

Title I - General Multilateral Development Assistance Policy (Sections 401-406)

The six sections in this Title, which relate to multilateral development assistance, do not have precedents in the FAA. The declaration of general policy for multilateral assistance (section 401) states that U.S. participation in international development assistance agencies furthers the purposes contained in the general policy section of Chapter I of the bill. Additionally, section 403 provides that the U.S. representatives to international organizations shall, "through their positions and their votes", reflect and further the adoption of the policies in Chapter I. Emphasis is placed upon equitable distribution of the financial burden among donor nations (section 402), and on coordination of development assistance (section 405).

The Title states that a "significant" portion of U.S. development assistance should be provided through multilateral organizations. It declares it to be U.S. policy to encourage international development assistance agencies to devise financial arrangements by which all countries contribute to development efforts "at levels commensurate with their financial capabilities", and states that U.S. participation in such organizations should be consistent with this principle.

Section 404 stresses that international organizations should promote the participation of women in the national economies of member and recipient countries, as well as an increased role for women in the international organizations themselves.

Section 405 states that U.S. development assistance resources must be used with maximum efficiency and effectiveness through coordination between bilateral policies and multilateral programs, and through regular evaluations of such programs.

Section 406 provides that reports and reviews produced by independent auditing groups within such organizations are submitted through the U.S. representatives to the Administrator for transmittal to the Congress and the Comptroller General.

Title II - International Financial Institutions (Sections 411-412)

Title II recognizes the importance of international financial institutions in the economic development arena and cites their capacities to work with developing countries. The policy section, section 411, contains a declaration of U.S. commitment to participate at "significant levels" in the IFIs.

Section 412 vests responsibility in the Administrator for formulating positions and instructing representatives of the U.S. to the IFIs. By delegation, under present law, such oversight is performed by the Department of the Treasury. Authorizations of funds for the U.S. contributions to the IFIs will continue to be made by separate legislation.

Title III - United Nations Programs (Sections 421-424)

When the President determines it to be in the national interest, section 421 authorizes the Administrator to make voluntary contributions on a grant basis to international organizations and programs. (This authority is currently delegated to the Administrator of AID, although the Department of State has practical responsibility for IO programs.) It also provides that the Administrator will be responsible for formulating U.S. positions and instructing U.S. representatives, with respect to international organizations receiving funds under this Title. Such responsibility is currently carried out by the Department of State. Also in this Title are separate authorities for the International Fund for Agricultural Development (section 423) and the International Fertilizer Development Center (section 424).

CHAPTER V - SPECIAL PROGRAMS

Title I - Economic Support Fund (Sections 501-506)

This Title replaces the current Security Supporting Assistance provisions in the FAA and provides Economic Support Funds to promote economic or political stability. Under the new provision, the authorization to furnish assistance is vested in to the President, but the bill states that the programs will be administered by the Administration. The bill directs the President to take into account, to the maximum extent feasible, the general policy provisions of Chapter II of the bill in planning economic assistance programs under Chapter V. (The Chapter II provisions are the revised "New Directions" policies). The Title also contains a policy statement on the Middle East which stresses the role of the U.S. as a mediator between Israel and the Arab nations.

There are separate authorizations for Egypt, Jordan, Syria, Israel, and Lebanon; the first three of these earmark part of the amount authorized to be used consistent with the policy directions of Chapter II.

The earmarked authorizations for Israel and Egypt are further earmarked into loan and grant components. (The present SSA legislations earmarks in this fashion only in the case of Israel.) There is an authorization for grants for regional programs (to include Israel) which stresses technical and scientific cooperation.

The Special Requirements Fund now in FAA section 903 is contained in section 503(h) of the new bill, but it is available only for economic support programs in the Middle East. It no longer has its own, independent authorization, but can draw on Middle East funds not otherwise earmarked. The bill contains no reference to the Sinai Support Mission, authorized by section 903 of the FAA. The applicable reportin and notification requirements of the FAA have been carried over in shortened form.

The bill also includes a policy statement regarding southern Africa (section 504) which focuses on an "internationally recognized constitutional settlement" of the Rhodesian conflict, and in which Congress contemplates the establishment of a Zimbabwe Development Fund. Section 504 further states that the sense of the Congress is that the U.S. should provide economic support programs for southern African countries, namely Zambia, Botswana, Lesotho, Swaziland, and Mozambique. (Zambia and Mozambique are countries to which assistance is presently restricted under the FAA). The southern African authorization (section 505) does not earmark funds for countries as the FAA does. The funds are to be used to address problems caused by economic dislocation resulting from conflict, to relieve economic dependencies on minority regimes, and to provide education and job training assistance to African refugees and persons displaced by war and internal strife.

Section 506, General Provisions and Prohibitions, limits use of funds authorized under Chapter V to "economic programs only", and prohibits such use for "military or paramilitary" purposes. Policy justifications for economic support programs are to be made by the Secretary of State in cooperation with the Administrator. Countries which receive economic support funds cannot receive bilateral development assistance, unless Congress has specifically authorized such use of funds.

Finally, the Title repeats the existing sense of Congress statement that no funds should go to any nation which denies its citizens the opportunity to emigrate.

Title II - International Disaster Assistance (Sections 521-523)

The general authority of existing sections 491 and 492 of the FAA is carried over almost verbatim into this Title. Sections authorizing assistance to individual disaster-struck countries are not repeated. The authority to the President to name a Special Coordinator for International Disaster Assistance is carried forward.

The bill leaves with the President the authority to furnish the assistance, but it is clear that the Administrator will be responsible for carrying it out, since the bill requires the Administrator to insure that the assistance provided shall, to the greatest extent possible, reach those most in need of relief and rehabilitation. As now, the assistance may be furnished "notwithstanding any other provision of this or any other Act".

CHAPTER VI - PRIVATE INITIATIVE IN DEVELOPMENT

Title I - General Policy (Sections 601-604)

This Chapter, which is largely new, has three principal functions. First, it expands the role in development efforts of private voluntary organizations (PVOs) and cooperatives. Second, it establishes within the new Administration an International Development Institute (IDI) to provide an institutional focus for PVO and cooperative efforts, to provide coordination of such programs with other U.S. development programs and as a means of funneling U.S. assistance through PVOs and cooperatives.

Third, as a means of coordinating public with private voluntary efforts, the Peace Corps would become a part of the IDI, and hence of the Administration. The existing Peace Corps legislation (The Peace Corps Act as amended, 22 U.S.C. 2501, et. seq.) would remain essentially intact, and the Peace Corps' administrative autonomy is intended to be preserved; its Director, however, would be a Deputy Director of the IDI.

To underline the importance attached in the bill to the IDI, the IDI Director would have a rank above that of other organizational divisions of the Administration. These other divisions are not identified in the bill, but would be headed by Assistant Administrators with Executive Level IV status, whereas the IDI head will be the Associate Administrator, at Level III.

In supporting the voluntary efforts addressed in this Chapter, the IDI can offer coordination, as well as plan and carry out its own development projects. It can finance development activities carried out by PVOs, cooperatives, and the Peace Corps. (Any line of demarcation between development work of the Peace Corps authorized under its Act and development work funded under the bill may need further resolution.) The IDI can provide technical and administrative support to voluntary agencies and the Peace Corps, and also will register PVOs and others for purposes of receiving funds under this Chapter. To "advise in the planning and administration of programs authorized by the Chapter," there is established a seven-person Advisory Board to the Institute, appointed by the President.

Section 602, derived from section 216 of the FAA, provides for payment of transportation charges on VOLAG shipments.

In addition to the reasons contained in section 216, it would permit reimbursement to PVOs for shipments to points of entry other than ports of entry (1) where ports cannot be used effectively because of natural or other disturbances, (2) where carriers to a specified country are unavailable, or (3) where substantial savings in costs or time can be effected by the utilization of points of entry other than ports (this authority is identical to that added to Title II of PL 480 in 1977).

Section 603(f) (which was added by errata sheet to Committee Print No. 2) provides for a specific authorization of funds for the IDI, in addition to funds otherwise available. Those other funds would clearly be the functional accounts, but could include any authorization in the bill, such as disaster assistance or the Economic Support Fund, which may be suitable for implementation by PVOs. The bill makes clear that PVOs and cooperatives can and should be used to the maximum extent practicable in implementing other development programs under the bill, in addition to receiving support for their own programs which may be furnished by the U.S. under this Chapter.

Section 603(f) also provides in its appropriations authority, an amount for the Peace Corps.

The bill emphasizes the benefits of PVO and cooperative participation in development programs and highlights such activities as self-help, participation, and the building of responsive institutions. It also recognizes and endorses the independent nature of PVOs and cooperatives.

CHAPTER VII - ADMINISTRATIVE

Title I - Organization (Sections 701-704)

This Title deals with the organization of the Administration. Section 701 provides for 15 principal officers to be appointed by the President, by and with the advice and consent of the

Senate. They include the Administrator at Executive Level I of the Executive schedule (pursuant to section 5313 of Title 5, U.S. Code), who is under the supervision and direction of the President; a Deputy Administrator at Executive Level II; and an Associate Administrator at Executive Level III, who would serve as the Director of the IDI; and not more than twelve Assistant Administrators at Executive Level IV. A.I.D. currently has 10 Assistant Administrators, subject to Senate confirmation, at Executive Level IV.

The Development Coordination Committee (DCC), which is authorized under section 640(B) of the FAA, is carried over in section 702. Section 622(a) of the FAA, which states that "nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State," is also carried over in section 702.

Subsections (b) and (c) of section 622 of the FAA, dealing with the coordination of U.S.G. representatives abroad and assigning responsibility for "continuous supervision and general direction" of economic assistance (and military programs) to the Secretary of State, are not carried over by the bill.

Title I contains administrative provisions (section 703) authorizing the Administrator to exercise authorities transferred to him, and authorizing the President to transfer related functions which are not transferred by the bill. For a period of four years after enactment, the President may provide for appropriate transfer of records, property, personnel and funds of agencies "which relate primarily to the functions, powers, and duties of the Administration". The bill gives the Administrator rule-making and delegation powers, as well as the authority to establish, alter, consolidate, or discontinue organizational units within the Administration, apart from units established by the bill.

Section 704 contains the authorization for operating expenses, in language similar to that of section 667 of the FAA. The section does not specify whether the operating expense account will be expected to cover operating expenses of all elements within the Administration. For example, the Peace Corps Act has its own authorization for such costs, as has OPIC.

Title II - Personnel (Sections 721-729)

Title II contains, in section 722, a major change to the existing personnel provisions of the FAA. It creates a new personnel category to be known as International Development Officer. According to the bill, the effective administration of development cooperation programs requires the employment of personnel with professional qualifications distinct from other personnel (such as Civil Service or Foreign Service). Since IDOs will be primarily responsible for formulation of policy and the implementation of programs and projects in other countries, they require continuous training and education, and regular service abroad.

Section 722 authorizes the Administrator to establish regulations providing for appointment, including temporary and limited appointments, for assignment, transfer, and termination. In other instances, such as compensation, retirement, and the grievance system, it refers to various provisions of the Foreign Service Act of 1946.

The new officer corps would be characterized by the following:

-- Officers would be available for assignment worldwide.

-- Only U.S. citizens could be members of the officer corps.

-- Assignments in the corps would be based on:

  (a) mastery of the technical field in which the individual is to serve;

  (b) reasonable proficiency in the principal working language or dialect of the country in which he or she is to serve;

  (c) knowledge and understanding of that country's history and culture and economic and political institutions.

-- Every IDO shall be assigned to duty abroad in the implementation of projects and activities in developing countries, except for periods of training or temporary assignments in the United States.

Section 722(c) provides that, apart from the officers and employees specifically provided for in sections 701 and 721(b), IDOs should be the ones primarily engaged in the formulation and implementation of programs, projects, and activities authorized by the bill and, when assigned to the U.S., should be assigned to such functions.

Section 722(d) provides for a supporting staff, but leaves to the Administrator the authority to implement the provision of staff by regulation. The Administrator is authorized to use the provisions of the Foreign Service Act of 1946 relating to Foreign Service Staff (FSS) for this purpose.

Apart from the change creating the IDO officer corp, Title II retains most of the personnel provisions of the FAA. Section 721(a) authorizes the employment of such personnel as the Administrator deems necessary; these personnel will be subject to Civil Service regulations. Section 721(b) retains the authority for the appointment of 110 employees without regard to any other provisions of law. Fifty-one of these individuals may be compensated at rates above GS-15. This is the same as the authority for the "administratively determined"(AD) category of personnel currently contained in the FAA.

The Title retains the existing provisions on experts and consultants, and on detail of personnel to foreign governments and international organizations. It includes authorization for special foreign assistance missions or staffs abroad. As mentioned earlier, section 729 provides for the transfer of A.I.D. personnel to the Administration. It does not mention the conversion of A.I.D. employees to the IDO category, although IDOs are clearly expected to be the major personnel system, not only abroad, but in Washington as well.

Title III - Administrative Requirements (Sections 741-750) and Title IV - General Provisions (Sections 761-767)

Titles III and IV contain administrative and general provisions similar to those found in Part III of the FAA. The bill deletes many of the restrictive, prohibitive, or obsolete provisions now contained in the FAA. At least 28 such "barnacles" have been deleted by the bill. Except as noted hereinafter, sections in these Titles generally accord with the sections of the FAA from which these provisions were drawn.

Section 741, which corresponds to section 611 of the FAA, has deleted the requirement for a certain computation of benefits regarding water-related projects.

Section 612 of the FAA, relating to the use of foreign currencies, has been greatly simplified in section 746 of the bill. It deletes the nonessential exhortations and leaves two basic authorities: (1) appropriation acts may provide for the utilization of excess foreign currency; (2) the Administration may use excess foreign currency for development purposes without appropriations.

Section 761 contains provisions which consolidate section 614 of the FAA dealing with special waiver authorities, sections 109 and 610 of the FAA dealing with transfer authorities, and section 652 requiring Congressional notification when such authorities are to be used. These provisions would reduce the President's special waiver authority to one-tenth of the current amount (from $250 million to $25 million per year). They would retain the authority for transfers among the bilateral accounts; and change the section 610 authority so that transfers could be made only from the Economic Support Fund (the renamed SSA account) and only into the bilateral accounts, disaster relief, and the activities of the IDI. The five percent limitation on augmentation of operating expense account appropriations would still apply.

Section 617 of the FAA, Termination of Assistance, is continued in section 763 of the bill. It is worthy of note because it contains the constitutionally unsound provision that assistance may be terminated by concurrent resolution.

Section 765 regarding general authorities combines parts of sections 201 and 635 of the FAA. The Development Loan Fund has been discontinued, but authority to make loans (along with the restrictions on interest rates) has been continued. The requirement for an application for assistance on loan projects in excess of $100,000 has been extended to include grant projects as well.

Section 620 and other prohibitions of the FAA have been significantly reduced. Section 767 of the bill contains only five subsections which relate to:

-- human rights (FAA section 116);

-- discrimination against U.S. personnel (FAA section 666);

-- debts (FAA section 620(g) and (r));

-- international terrorism (FAA section 620A); and

-- communist countries (FAA section 620(b) and (f).

An additional prohibition carried forward from the FAA is contained in subsection 203(d). It prohibits the use of funds for abortions or involuntary sterilizations.

Section 502B of the Foreign Assistance Act, which relates to human rights considerations in formulating security assistance programs, has been deleted. Economic Support Funds would be subject to the overall limitations that assistance should not be provided to countries which engage in a consistent pattern of gross violations of internationally recognized human rights. Section 767 does not include the national security exception currently contained in section 502B for SA programs. The bill provides that human rights determinations with respect to economic support programs, as well as development assistance programs, are to be made by the Administrator, in consultation with the Coordinator for Human Rights and Humanitarian Affairs in the State Department.

<u>Title V - Reporting Requirements</u> (Sections 781-782)

Title V is a consolidation of many of the reporting requirements scattered through the FAA. Section 781 provides for an annual report to be submitted by the Administrator in his capacity as the Chairman of the DCC, on February 1 of each year.

The annual report would have several major sections:

-- First would be a comprehensive and coordinated review of U.S. development policies and programs, an assessment of the impact of such policies and programs on the well-being of the poor majority, and an assessment of such policies and programs on economic conditions in the U.S.

- -- Second would be a breakout of the dollar value of foreign assistance by category and by country showing: (1) assistance from 1946 up to two fiscal years prior to the report; (the "green book" material); (2) the Congressional Presentation in the prior fiscal year; (3) the obligations in the prior fiscal year; (4) the Operational Year Budget for the current fiscal year; and (5) the Congressional Presentation for the next fiscal year.

- -- Third would be a debt status report.

- -- Fourth would be a debt servicing and debt delinquency report.

- -- Fifth would be such other matters as the Chairman of the DCC thinks appropriate.

In addition to the annual report, section 782 requires notification of program changes as has been required by Appropriation Acts and by section 671 of the FAA.

Not all of the reporting requirements of the bill are contained in Title V. There are instances in earlier Chapters where reports are required on particular matters.

<u>Title VI - Miscellaneous Provisions</u> (Sections 791-798)

If enacted, the bill would become effective on October 1, 1978. If it is enacted prior to that date, some time would be allowed for preparation for the changeover.

The FAA would be repealed except for some freestanding provisions relating to: responsibilities of the Department of the Treasury regarding foreign currencies to be used for Polish military cemeteries in Italy (FAA section 648); the international law part of the Hickenlooper amendment (FAA section 620(e)(2)), and the American Schools and Hospitals Abroad program (FAA section 214). However, responsibility for administering ASHA is transferred to the International Communication Agency.

In section 798, the Administrator would be added to the National Advisory Council (NAC) on International Monetary and Financial Policies. This appears consistent with the Administrator's new role with regard to the international financial institutions.