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Date: 2/9/98

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. letter	Mother Teresa to President Reagan re: visas. 1p., partial.	12/14/85	P6 B6
2. list	missionaries of charity pending visa renewals in 1986. 1p.	n.d.	P6 B6

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]
- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]
- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statue [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

THE WHITE HOUSE

WASHINGTON

April 11, 1986

MEMORANDUM FOR MAURICE C. INMAN, JR.
GENERAL COUNSEL
IMMIGRATION AND NATURALIZATION SERVICE

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Request for Executive Order to Enable Foreign-Born Spouses of CARE's Overseas Personnel to Become Eligible for Citizenship

In the attached correspondence, the General Counsel of CARE requests that the President issue an Executive Order pursuant to 8 U.S.C. § 1430(b) to permit the foreign-born spouses of CARE overseas personnel to become eligible for citizenship. I note from the attachments that you have had previous dealings with the correspondent on the issue. I gather from those attachments that it is your view that CARE does not meet the first of the two requirements of 8 U.S.C. § 1480(b), since it is not an international organization in which the United States participates pursuant to treaty or statute. If this legal interpretation is correct, the President could not issue the requested Executive Order.

Please provide us with a recommendation on responding to Ms. Winnick's request for an Executive Order.

ID # 373364 CU

IM

JV

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

JR

Name of Correspondent: Pamela Wunnicke

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Request for executive order to enable foreign-born spouses of Care's overseas personnel to become eligible for citizenship

ROUTE TO: Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CU HOLL	ORIGINATOR	86/01/13	FX		1 1
	Referral Note:				
CU AT 18	I	86/01/14	FX	S	86/01/24 TR
	Referral Note:				
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ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

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5/81

CARE
660 First Avenue • New York, NY 10016 • (212) 686-3110 • Cable: PARCELUS NY

Pamela R. Winnick, *General Counsel*

January 8, 1986

373364 CU

Fred F. Fielding, Esquire
Counsel to the President
of the United States
The White House
Washington, D.C. 20500

Dear Mr. Fielding:

I am writing most respectfully to request an executive order pursuant to 8 U.S.C. Section 1430(b) to enable foreign-born spouses of our overseas personnel to become eligible for citizenship.

Title 8, Section 1430(b) grants an exemption from the residency requirements of the immigration laws for spouses of United States citizens employed by "public international organization[s] in which the United States participates by treaty or statute". It is the position of the Immigration and Naturalization Service that, although we fit within the statutory definition, we nevertheless require an executive order pursuant to the Privileges and Immunities Act, 22 U.S.C. Section 288 et seq. This position is one only recently taken by I.N.S.; in earlier years, CARE spouses were routinely accorded the exemption. Although we strenuously disagree with I.N.S. and believe that its reading of the statute places an additional and unnecessary strain on your office, we appear to have been left little choice in the matter.

To begin with, let me emphasize that we do not seek the whole range of immunities conferred by 22 U.S.C. Section 288a. We seek only an exemption from the residency requirements of the immigration laws for the spouses of our U.S. citizen employees. We believe that we are clearly entitled to such an exemption under the applicable statute and that such an exemption is fully consistent with the policies underlying the immigration laws.

First, we submit that CARE is clearly a "public international organization in which the United States participates by treaty or statute" within the meaning of both 8 U.S.C. Section 1430(b) and 22 U.S.C. Section

288. CARE is one of the largest private voluntary organizations in the world, with operations in thirty-six countries and an annual budget in excess of $350 million. Since the enactment of the Agricultural Trade Development and Assistance Act of 1954, Public Law 480 (the text of which is enclosed), the bulk of our work is done with the support of the United States Government, primarily in the form of food commodities and ocean freight costs donated by the Agency for International Development (U.S.A.I.D.). In our 1985 fiscal year alone, the value of these food commodities and ocean freight costs was close to $240 million. When combined with an additional $20 million in other United States government grants, this accounted for close to 75% of our annual budget.

As agents of the government in the contribution of food overseas, CARE helps to bolster the economy of United States farmers and their suppliers. At the same time, in both emergency relief (for example, Mexico, Columbia and Ethiopia) and long-term development, our work helps to alleviate hunger worldwide and promote good will towards the United States Government and donors. Indeed, for this the White House itself has honored us. Last October, President Reagan, recognizing our outstanding achievement in the alleviation of world hunger, presented CARE with the Presidential World Without Hunger Award; Mrs. Reagan has recently agreed to serve as Honorary Chairperson of our fortieth anniversary celebration.

Finally, we would also note that the issue before you is one of deep concern to our employees and their spouses who, because of service overseas, are unable to accumulate the necessary physical residency in this country. It is precisely the inequity created by the enforced absence of persons serving the interests of the United States overseas that Congress sought to rectify in the statute. See Petition of Gray, 369 F. Supp.1049, 1051 (S.D. Miss. 1973). We think that the spouses of such persons serving the humanitarian interests of our country -- often with some financial and personal hardship -- should not have to forsake the privileges of citizenship as well.

Insofar as such persons would otherwise be qualified for citizenship by virtue of their marriage to a United States citizen, we do not see any circumvention of the basic policies underlying the immigration laws.

Enclosed for your review are copies of CARE's 1985 Annual Report, Public Law 480 and correspondence with I.N.S. Needless to say, your prompt attention to this pressing issue is deeply appreciated.

I will be calling your office for an appointment to discuss this matter in person. In the meantime, please do not hesitate to contact me.

Respectfully submitted,

Pamela R. Winnick

Pamela R. Winnick
General Counsel

PRW/jl
Enclosure

U.S. Department of Justice
Immigration and Naturalization Service

Office of the General Counsel

425 Eye Street N.W.
Washington, D.C. 20536

AUG 0 1 1985

Ms. Pamela R. Winnick
General Counsel
CARE
660 First Avenue
New York, New York 10016

Dear Ms. Winnick:

This is in response to your letter of June 21, 1985, regarding the eligibility of spouses of overseas CARE employees for naturalization benefits under 8 U.S.C. § 1430(b). As you are aware, CARE is not among those organizations listed in 8 C.F.R. § 316a.4 that receive naturalization benefits found in 8 C.F.R. § 1430 (b). As stated in this regulation, only those organizations provided for in the International Organizations Immunity Act, 22 U.S.C. § 288 (1945), are considered as "public international organizations" for the purposes of 8 U.S.C. § 1430(b). The International Organizations Immunities Act defines "international organization" as follows:

> A public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the priviliges, exemptions, and immunities provided in this subchapter. (emphasis added) 22 U.S.C. § 288.

Although CARE (as well as many other international organizations) receives money from the United States government, it does not fall within this narrow definition of "international organization." There is no treaty or statute "in which the United States participates" with CARE nor has CARE been designated by the President through an Executive Immunities Order as an organization entitled to receive the privilages of the Act.

I hope this information has further clarified why spouses of overseas CARE employees will not be found eligible for naturalization benefits under 8 U.S.C. § 1430(b). If you have any questions, please let us know.

Sincerely,

Maurice C. Inman, Jr.
General Counsel

U.S. Department of Justice
Immigration and Naturalization Service

Office of the Deputy General Counsel

425 Eye Street N.W.
Washington, D.C. 20536

MAY 9 1985

Ms. Pamela R. Winnick
General Counsel
CARE
660 First Avenue
New York, New York

Dear Ms. Winnick:

This is in response to our phone conversation and your letter of April 3, 1985, regarding the eligibility of spouses' of overseas CARE employees for naturalization benefits under 8 U.S.C. §1430(b). As you are aware, CARE is not among those organizations listed in 8 C.F.R. 316a.4 that quality as a "public international organization in which the United States participates by treaty or statute, ...", 8 U.S.C. §1430(b). Although CARE (as well as many other international organizations) receives money from the United States government and acts as an agent of the United States, it does not fall within the narrow scope of 8 U.S.C. §1430(b) because there is no treaty or statute "in which the United States participates" with CARE.

Should you want to pursue this matter further, I suggest that you contact your congressman about introducing private legislation.

I hope this information has clarified why CARE is outside the parameters of 8 U.S.C. §1430(b). If you have any questions, please let us know.

Sincerely,

Paul W. Schmidt
Deputy General Counsel

As amended through December 31, 1979 Annotation of related legislation included. Originally enacted July 10, 1954 (68 Stat. 454)

Agricultural Trade Development and Assistance Act of 1954, as Amended Public Law 480 - 83d Congress

AN ACT

To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954."[1]

Preamble

SEC. 2. The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States.

General Criteria for PL 480

In furnishing food aid under this Act, the President shall—

(1) give priority consideration, in helping to meet urgent food needs abroad[2], to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortagaes and by inability to meet immediate food requirements on a normal commercial basis;

(2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

(3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

(5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world.[3] (7 USC 1691.)

(c) take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under this title will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Usual Marketing Requirements (also see) 103 N

(d) make sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this Act, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under title I of this Act, any country or area dominated by a Communist government.[10] Notwithstanding any other Act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under title I of this Act with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this Act shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;[11]

Friendly Countries Definition

Military Aggressor

(e) take appropriate steps to assure that private trade channels are used to the maximum extent practicable both with respect to sales from privately owned stocks and with respect to sales from stocks owned by the Commodity Credit Corporation and that small business has adequate and fair opportunity to participate in sales made under the authority of this Act;

Private Trade Channels

(f) give consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs by increasing the effective demand for agricultural commodities through the support of measures to stimulate equitable economic growth in recipient countries, with appropriate emphasis on developing more adequate storage, handling, and food distribution facilities;[12]

Expansion of Markets

(g) obtain commitments from purchasing countries that will prevent resale or transhipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this title, without specific approval of the President;

Export Limitations

(h) obtain rates of exchange applicable to the sale of commodities under such agreements which are not less favorable than the highest of exchange rates legally obtainable in the respective countries and which are not less favorable than the highest of exchange rates obtainable by any other nation;

Rates of Exchange

(i) promote progess toward assurance of an adequate food supply by encouraging countries with which agreements are made to give higher emphasis to the production of food crops than to the production of such non-food crops as are in world surplus;

(j) exercise the authority contained in title I of this Act to assist friendly countries to be independent of domination or control by any

Communist Movement

organizations to use the foreign currencies, including principal and interest from loan repayments, which accrue in connection with sales for foreign currencies under this title for one or more of the following purposes:[17]

U.S. uses

(a) For payment of United States obligations (including obligations entered into pursuant to other legislation);

(b) For carrying out programs of United States Government agencies to—

Market Development

(1) help develop new markets[18] for United States agricultural commodities on a mutually benefitting basis. From sale proceeds and loan repayments under this title not less than the equivalent of 5 per centum of the total sales made each year under this title shall be set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and made available in advance for use as provided by this paragraph over such period of years as the Secretary of Agriculture determines will most effectively carry out the purpose of this paragraph: *Provided,* That the Secretary of Agriculture may release such amounts of the foriegn currencies so set aside as he determines cannot be effectively used for agricultural market development purposes under this section, except that no release shall be made until the expiration of thirty days following the date on which notice of such proposed release is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations and to the House Committee on Agriculture and the House Committee on International Relations if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.[19] Provision shall be made in sale and loan agreements for the convertibility of such amount of the proceeds thereof (not less than 2 per centum) as the Secretary of Agriculture determines to be needed to carry out the purpose of this paragraph in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities. Such sums shall be converted into the types and kinds of foreign currencies as the Secretary deems necessary to carry out the provisions of this paragraph and such sums shall be deposited to a special Treasury account and shall not be made available or expended except for carrying out the provisions of this paragraph. Notwithstanding any other provision of law, if sufficient foreign currencies for carrying out the purpose of this paragraph in such countries are not otherwise available, the Secretary of Agriculture is authorized and directed to enter into agreements with such countries for the sale of agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this paragraph. In carrying out agricultural market development activities, nonprofit agricultural trade organizations shall be utilized to the maximum extent practicable. The purpose of this paragraph shall include such representation of agricultural industries as may be required during the course of discussions on trade programs relating either to individual commodities or groups of commodities;

Special Account

wise increasing the consumption of, and markets for, United States agricultural products: *Provided, however,* That no such loans shall be made for the manufacture of any products intended to be exported to the United States in competition with products produced in the United States and due consideration shall be given to the continued expansion of markets for United States agricultural commodities or the products thereof. Foreign currencies may be accepted in repayment of such loans;

(f) To promote multilateral trade and agricultural and other economic development, under procedures, established by the President, by loans or by use in any other manner which the President may determine to be in the national interest of the United States, particularly to assist programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food deficit countries friendly to the United States, for which purpose the President may utilize to the extent practicable the services of nonprofit voluntary agencies registered with and approved by the Agency for International Development:[24] *Provided,* That no such funds may be utilized to promote religious activities;

Promotion of Multilateral Trade and Economic Development

(g) For the purchase of goods or services for other friendly countries;

(h) For financing, at the request of such country, programs emphasizing maternal welfare, child health and nutrition, and activities, where participation is voluntary, related to the problems of population growth, under procedures established by the President through any agency of the United States, or through any local agency which he determines is qualified to administer such activities. Not less than 5 per centum of the total sales proceeds received each year shall, if requested by the foreign country, be used for voluntary programs to control population growth;[25]

Family Planning

Population Control

(i) For paying, to the maximum extent practicable, the costs outside the United States of carrying out the program authorized in Section 406 of this Act;

(j) For sale for dollars to United States citizens and nonprofit organizations for travel or other purposes of currencies determined to be in excess of the needs of departments and agencies of the United States for such currencies. The United States dollars received from the sale of such foreign currencies shall be deposited to the account of Commodity Credit Corporation; and

Sale of Foreign (excess) Currencies to U.S. Citizens

(k) For paying, to the maximum extent practicable, the costs of carrying out programs for the control of rodents, insects, weeds, and other animal or plant pests;[26]

Provided, That—

(1) Section 1415 of the Supplemental Appropriation Act, 1953,[27] shall apply to currencies used for the purposes specified in subsections (a) and (b), and in the case of currencies to be used for the purposes specified in paragraph (2) of subsection (b) the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies.[28]

mittee on International Relations[29] of such determination; and shall thereafter report to each such committee as often as may be necessary to keep such Committee advised as the extent of such excess, the purposes for which it is used, or proposed to be used, and the effects of such use. (7 USC 1704.)

Special Account

SEC. 105. Foreign currencies received pursuant to this Act shall be deposited in a special account to the credit of the United States and shall be used only pursuant to Section 104, and any department or agency of the Government using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used. The President shall utilize foreign currencies received pursuant to this Act in such manner as will, to the maximum extent possible reduce any deficit in the balance of payments of the United States. (7 USC 1705.)

Dollar Credit Sales And Terms

SEC. 106. (a) Payment by any friendly country for commodities purchased for dollars on credit shall be upon terms as favorable to the United States as the economy of such country will permit. Payment for such commodities shall be in dollars with interest at such rates as the Secretary may determine but not less than the minimum rate required by Section 122 (b)[30] of the Foreign Assistance Act of 1961 for loans made under that section.[31] Payment may be made in reasonable annual amounts over periods of not to exceed twenty years from the date of the last delivery of commodities in each calendar year under the agreement, except that the date for beginning such annual payment may be deferred for a period not later than two years after such date of last delivery, and interest shall be computed from the date of such last delivery. Delivery of such commodities shall be made in annual installments for not more than ten years following the date of the sales agreement and subject to the availability of the commodities at the time delivery is to be made.

Use of Sales Proceeds Provision

(b) (1) Agreements hereunder for the sale of agricultural commodities for dollars on credit terms shall include provisions to assure that the proceeds from the sale of the commodities in the recipient country are used for such economic development purposes as are agreed upon in the sales agreement or any amendment thereto. In negotiating such agreements with recipient countries, the United States shall emphasize the use of such proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.

Self-Help

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in Section 406(a) (1) of this Act in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with Section 109 of this Act and which programs are directed at and likely to achieve the policy objectives of Sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objec-

Act, the authority provided in this section for making dollar sales shall be used to the maximum extent practicable.

PTE Usual Marketing Requirements

(b) In carrying out the provisions of this section, the Secretary shall take reasonable precautions to safeguard usual marketings of the United States and to avoid displacing any sales of United States agricultural commodities which the Secretary finds and determines would otherwise be made for cash dollars.

Export Limitations

(c) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this section.

(d) In carrying out this Act, the provisions of Sections 102, 103(a), 103(d), 103(e), 103(f), 103(j), 103(k), 110, 401, 402, 403, 404, 405, 407, 408, and 409 shall be applicable to sales under this section.' (7 USC 1707.)

Ocean Transportation

SEC. 108. The Commodity Credit Corporation may finance ocean freight charges incurred pursuant to agreements for sales for foreign currencies (other than those providing for conversion to dollars as described in Section 103(b) of this Act) entered into hereunder only to the extent that such charges are higher (than would otherwise be the case) by reason of a requirement that the commodities be transported in United States-flag vessels.[34] Such agreements shall require the balance of such charges for transportation in United States vessels to be paid in dollars by the nations or organizations with whom such agreements are entered into.[35] (7 USC 1708.)

Self-Help Requirements

SEC. 109. (a) Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

(1) devoting land resources to the production of needed food rather than to the production of nonfood crops—especially nonfood crops in world surplus;

(2) development of the agricultural chemical, farm machinery and equipment, transportation and other necessary industries through private enterprise;

(3) training and instructing farmers in agricultural methods and techniques;

(4) constructing adequate storage facilities;

(5) improving marketing and distribution systems;

(6) creating a favorable environment for private enterprise and investment, both domestic and foreign, and utilizing available technical know-how;

(7) establishing and maintaining Government policies to insure adequate incentives to producers;

terion and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.[39] (7 USC 1711.)

Human Rights

SEC. 112.[40] (a) No agreement may be entered into under this title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall specify how the projects or programs will be used to benefit the needy people and shall require a report to the President on such use within 6 months after the commodities are delivered to the recipient country.

Information to Congressional Committees

(b) To assist in determining whether the requirements of Subsection (a) are being met, the Committee on Agriculture, Nutrition, and Forestry of the Senate or the Committee on International Relations of the House of Representatives may require the President to submit in writing information demonstrating that an agreement will directly benefit the needy people in a country.

(c) In determining whether or not a government falls within the provisions of Subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

Presidential Report

(d) The President shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in the annual presentation materials on planned programing of assistance under this Act, a full and complete report regarding the steps he has taken to carry out the provisions of this section. (7 USC 1712.)

Priority to Food & Fiber

SEC. 113.[41] In the allocation of funds made available under this title, priority shall be given to financing the sale of food and fiber commodities. (7 USC 1713.)

commodities or ocean transportation financed under this title for a period of five years. (7 USC 1715.)

TITLE II[44]

Authority

SEC. 201.[44] (a) The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirement; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such[45] agricultural commodities determined to be available under Section 401 as he may request.

Minimum Tonnage Requirements

(b)[44] The minimum quantity of agricultural commodities distributed under this title—(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit agencies and the World Food Program; (2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and (3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title: *Provided,* That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this Act pursuant to Section 401, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.[46] (7 USC 1721.)

Waiver of Minimum tonnage requirements

Designation of Sponsors

SEC. 202.(a) The President may furnish commodities for the purposes set forth in Section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the World Food Program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Agency for International Development.[47] If no United States nonprofit voluntary agency registered with and approved by the Agency for International Development[47] is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Agency for International Development.[47] Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergen-

Use of Foreign Vol. Agencies

Publicity and Marking

the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources. (7 USC 1724.)

Use of World Food Program

SEC. 205. It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs. It is further the sense of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World Food Program beyond its present established goals. (7 USC 1725.)

Neediest Individuals

SEC. 206.[54] Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this title shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with Section 109 of this Act, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for (A) alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in Section 103 of the Foreign Assistance Act of 1961, or (B) programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this title to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with this section in the reports required under Section 408 of this Act and Section 657 of the Foreign Assistance Act of 1961.[55] (7 USC 1726.)

TITLE III[56,57,58]

Authority

SEC. 301. (a) In order to establish a strong relationship between United States food assistance and efforts by developing countries to increase the availablity of food for the poor in such countries and improve in other ways the quality of their lives, the President is authorized to encourage the use of the resources provided by the concessional financing of agricultural commodities under this Act for agricultural and rural development, including voluntary family planning, health, and nutrition programs, by permitting the funds accruing from the local sale of such commodities or the dollar

Minimum Programming Requirements

(c) (1) Except as provided in paragraph (2) of this subsection, the aggregate value of all agreements entered into under this title—

(A) for fiscal year 1978, shall be not less than 5 percent.

(B) for fiscal year 1979, shall be not less than 10 percent, and

(C) for fiscal year 1980 and each fiscal year thereafter, shall be not less than 15 percent, of the aggregatge value of all agreements entered into under title I of this Act for such fiscal year.

Presidential Waiver

(2) The President may waive the requirement of paragraph (1) of this subsection with respect to a fiscal year if he determines that there are an insufficient number of agricultural and rural development projects which qualify for assistance under this title and that therefore the humanitarian purposes of this Act would be better served by furnishing financing under other provisions of this Act. Any such waiver shall be reported to the Congress, together with a detailed statement of the reasons for the lack of acceptable projects and a detailed description of efforts by the United States Government to assist eligible countries, pursuant to Section 303(a), in identifying appropriate projects for assistance under this title.

Maximum Effort for Food for Development Projects

(3) Greatest efforts shall be made by relevant United States agencies to encourage maximum utilization of assistance for Food for Development projects under this title, even beyond the minimums required by paragraph (1) of this subsection.

(4) In developing and carrying out Food for Development Programs under this title, consideration shall be given to using the capability and expertise of American agriculture, in partnership with indigenous individuals and organizations in furthering economic development and increased food production.[60] (7 USC 1727a.)

Plans for Food for Development Projects

SEC. 303. (a) A country designated as eligible and wishing to participate in a Food for Development Program shall formulate, with the assistance (if requested) of the United States Government, a multiyear proposal which shall be submitted to the President. Such proposal shall include an annual value or amount of agricultural commodities proposed to be financed under the authority of title I of this Act pursuant to the provisions of this title, and a plan for the intended uses of commodities or the funds generated from the sale of such commodities, on an annual basis.[61] Such proposal shall also specify the nature and magnitude of problems to be affected by the efforts, and shall present targets in quantified terms, insofar as possible, and a description of the relationships among the various projects, activities, or programs to be supported.

Multi-Year Programming

(b) The multiyear utilization proposal for a Food for Development Program shall include, but not be limited to, a statement of how assistance under such Program will be integrated into and complement that country's overall development plans and other forms of bilateral and multilateral development assistance including assistance made available under Section 103 of the Foreign Assistance Act of 1961 or under any other title of this Act.

(c) In his review of any utilization proposal for a Food for Development Program, the President shall be satisfied that such assistance is intended to complement, but not replace, assistance authorized by the Foreign Assistance Act of 1961, or any other program of bilateral or multilateral assis-

greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this Act.[63] (7 USC 1727d.)

(c) When agricultural commodities made available under this title are used by the participating country in development projects in accordance with the applicable Food for Development Program, the dollar sales value of such commodities shall be applied, in accordance with Subsections (a) and (b) of this section, against repayment obligations of that country under this Act, with the value of the commodities so used being deemed to be disbursements made at the time of such use.[65] (7 USC 1727d.)

Reporting

SEC. 306. Not more than one year after the initial delivery of commodities to any country under this title and each year thereafter for the period of agreement, the government of the participating country, with the assistance (if requested) of the United States Government, shall submit a comprehensive report to the President on the activities and progress achieved under the Food for Development Program for such country, including, but not limited to, a comparsion of results with projected targets, a detailed description of how the commodities were used or[66] a specific accounting for funds generated, their uses, and the outstanding balances at the end of the most recent fiscal year. Such annual report may also include recommendations for modification and improvement in the Food for Development Program of such country. (7 USC 1727e.)

Presidential Review Annual Report

SEC. 307. (a) Each year the President shall review all agreements providing for the use under this title of the proceeds from the sale of agricultural commodities, or of the commodities themselves, with respect to which there was not full disbursement during the preceding fiscal year.[67] The results of such review shall be included in the annual report to the Congress required under Section 408(a) of this Act.

(b) If the President finds that the provisions of an agreement are not being substantially met, he shall not extend financing for sales under this title until the end of the following fiscal year or until the situation is remedied, whichever occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the recipient government. (7 USC 1727f.)

SEC. 308. [This section contains an amendment to Section 407 of the Agricultural Act of 1949, authorizing the Commodity Credit Corporation to make commodities available to relieve distress.]

SEC. 309. [This section contains a revision of Section 416 of the Agricul-

quirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carrover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.[71],[72] (7 USC 1731.)

Waiver For Humanitarian Purposes

(b) No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with[73] domestic production or marketing[73] in that country. (7 USC 1731.)

Bellmon Amend. Storage and Disincentive

SEC. 402. The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. The foregoing provision shall not be construed as prohibiting respesentatives of the domestic wine or beer[74] industry from participating in market development activities carried out with foreign currencies made available under title I of this Act which have as their purpose the expansion of export sales of United States agricultural commodities.[75] Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this Act. In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities.[76] (7 USC 1732.)

Definition of Agricultural Commodities

Priority to Food and Fiber

SEC. 403.(a)[77] There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under Sections 104(j) and 105, for its actual costs incurred or to be incurred. In presenting his budget, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

Appropriations

(b) [78]Notwithstanding any other provisions of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this Act, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be

Reimbursement to CCC at Export Market Value

tries and in the training of farmers of such developing countries within the United States or abroad;

(4) To conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries;

(5) To coordinate the program authorized in this section with other foreign assistance activities of the United States;

(6) To establish by such rules and regulations as he deems necessary the conditions for eligibility and retention in and dismissal from the program established in this section, together with the terms, length and nature of service, compensation, employee status, oaths of office, and security clearances, and such persons shall be entitled to the benefits and subject to the responsibilities applicable to persons serving in the Peace Corps pursuant to the provisions of Section 612, volume 75 of the Statutes at Large, as amended; and

(7) To the maximum extent practicable, to pay the costs of such program through the use of foreign currencies accruing from the sale of agricultural commodities under this Act, as provided in Section 104(i).

(b) There are hereby authorized to be appropriated not to exceed $33,000,000 during any fiscal year for the purpose of carrying out the provisions of this section. (7 USC 1736.)

Advisory Committee

SEC. 407. There is hereby established an Advisory Committee composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Bureau of the Budget,[81] the Administrator of the Agency for International Development, the chairman and the ranking minority member of both the House Committee on Agriculture and the House Committee on Foreign Affairs, and the chairman and the ranking minority member of both the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations, or their designees (who shall be members of such committes or, in the case of members from the Executive Branch, who shall have been confirmed by the Senate). The Advisory Committee shall survey the general policies relating to the administration of the Act, including the manner of implementing the self-help provisions, the uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under title I, the amount of currencies to be reserved in sales agreements for loans to private industry under Section 104(e), rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto. The Advisory Committee shall meet not less four times during each calendar year at the call of the Acting Chairman of such Committee who shall preside in the following order: The chairman of the House Committee on Agriculture, the chairman of the Senate Committee on Foreign Relations, the chairman of the Senate Committee on Agriculture and Forestry, and the chairman of the House Committee on Foreign Affairs.[82] (7 USC 1736a.)

ed governmental Acts affecting property owned by United States citizens), shall be applicable to assistance provided under title I of this Act.[87] (7 USC 1736d.)

North Vietnam Prohibition

SEC. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1,1973, assistance to North Vietnam is specifically authorized.[88] (7 USC 1736e.)

International Food Reserves

SEC. 412. The President is authorized and encouraged to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs of such a system to be equitably shared among nations and with farmers and consumers to be given firm safeguards against market price disruption from such a system.[89] (7 USC 1736f.)

Multi-Year Availability

SEC. 413. In order to best meet the humanitarian and developmental purposes of this Act, commodities provided under this Act for developmental purposes shall be made available, to the maximum extent practicable, on a multiyear basis when necessary for the most effective accomplishment of these purposes.[90] (7 USC 1736g.)

APPENDIX

Following is a list of citations to Public Law 480 and all the amendments thereto:

Public Law 83-480(S.2475),68 Stat.454, July 10, 1954, as amended by Public Law 84-25 (S. 752),69 Stat.44, April 25, 1955; Public Law 84-387 (S.2253), 69 Stat. 721, August 12, 1955; Public Law 84-540 (H.R. 10875), 70 Stat. 188, May 28,1956; Public Law 84-962 (S. 3903), 70 Stat. 988, August 3, 1956; Public Law 84-726 (H.R. 11356) 70 Stat. 555, July 18, 1956; Public Law 85-128(S.1314), 71 Stat. 345, August 13, 1957; Public Law 85-141, (S. 2130), 71 Stat.355, August 14, 1957; Public Law 85-477 (H.R. 12181), 72 Stat. 261, June 30, 1958; Public Law 85-931 (S. 3420), 72 Stat.1790, September 6, 1958; Public Law 86-108, (H.R. 7500), 73 Stat.246, July 24, 1959; Public Law 86-341 (H.R. 8609), 73 Stat. 606, September 21, 1959; Public Law 86-472 (H.R. 11510), 74 Stat. 140, May 14, 1960; Public Law 87-28 (S. 1027), 75 Stat. 64, May 4, 1961; Public Law 87-128 (S. 1643), 75 Stat. 294, August 8, 1961; Public Law 87-195 (S. 1983), 75 Stat. 424, September 4, 1961; Public Law 87-703 (H.R. 12391), 76 Stat. 605, September 27, 1962; Public Law 87-839 (S. 3389), 76 Stat. 1074, October 18, 1962; Public Law 88-205 (H.R. 7885), 77 Stat. 379, December 16, 1963; Public Law 88-638 (S. 2687), 78 Stat. 1035, October 8, 1964; Public Law 89-106 (H.R. 5508), 79 Stat. 431, August 4, 1965; Public Law 89-171 (H.R. 7750), 79 Stat. 662, September 6, 1965; Public Law 89-808 (H.R. 14929), 80 Stat. 1526, November 11, 1966; Public Law 90-436 (S. 2986), 82 Stat. 450, July 29, 1968;

en or intends to take as a result of such report, and recommendations, if any, for legislative changes." (7 USC 1691 note.)

EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING BASIC FOOD NEEDS

Effective Food Aid Report To Congress

SEC. 201. The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 often is distributed within those countries in ways which do not significantly alleviate hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act) to increase the effectiveness of food assistance under that Act in meeting those needs. (7 USC 1711 note.)

amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in Section 491.

SEC. 2. Priority shall be given to furnishing agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 to countries in the Caribbean in order to assist in alleviating the human suffering caused by the recent hurricanes in that region.

[4]Section 603 of the Foreign Assistance Act of 1961, Pub. Law 87-195,75 Stat. 439, as amended (22 USC 2353), provides that "The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954, as amended (7 USC 1691 et seq.), and transfers of fresh fruit and products thereof under this Act, shall not be governed by the provisions of Section 901(b) of the Merchant Marine Act of 1936, as amended (46 USC 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels."

Section 3 of Pub. Law 962, 84th Congress, 70 Stat. 988, August 3, 1956, provides that "Sales of fresh fruit and the products thereof under title I of the Act shall be exempt from the requirements of the cargo preference laws (Public Resolution 17,Seventy-third Congress (15 USC 616a) and Section 901 (b) of the Merchant Marine Act,1936, (46 USC 1241(b))."

For the text of the Cargo Preference Act, Pub. Law 83-664,68 Stat. 832, as amended, 75 Stat. 565 (46 USC 1241), and Section 901(b) of the Merchant Marine Act of 1936, 68 Stat. 832, (46 USC 1241(b)). see note 34.

[5]Certain provisos in Section 102 were added by Pub.Law 90-436,82 Stat. 451, July 29, 1968 and repealed by Pub. Law 95-88,91 Stat. 545, August 3, 1977. Section 102 was also amended by Pub. Law 95-113,91 Stat. 955, September 29, 1977, to provide that CCC, when requested, may serve as purchasing or shipping agent, or both.

[6]Section 103(a) was amended by Pub. Law 94—161, 89 Stat. 851, Dec. 20, 1975 to include specific examples of "Self-Reliance".

[7]Section 122 of the Foreign Assistance Act of 1961, as amended (22 USC 2151t), provides in part that "The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long-range plans and programs designed to develop economic resources and increase production capacities." In so doing he must take certain factors into account. Funds, however,shall not ". . . be loaned at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum. . ." Currently, the maximum term for loans under this Act is 40 years with a grace period of not to exceed 10 years. Section 102 (b) (2) (B) of Public Law 95-424, 92 Stat.941, October 6, 1978 Substituted Section "122" for "201".

[8]This proviso was amended and the last sentence added by Public Law 90-436, 82 Stat. 450, July 29, 1968.

[9]Section 103(b) was amended by Pub. Law 94-161,89 Stat. 851, December 20, 1975 by inserting "and Section 106(b) (2) immediately after 'of Section 104'". Section 193(b) was further amended by Pub. Law 95-88,91 Stat. 551, August 3, 1977 by deleting "Section 106(b) (2)" and inserting in lieu thereof title III.

[10]Section 103(d) was amended by Pub. Law 95-88,91 Stat. 545, August 3, 1977 by deleting the (1) Communist, North Vietnam and Cuba restriction (2) the United

Trade Restrictions

"(t) No assistance shall be furnished under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country." (22 USC 2370(t).)

Diplomatic Relations Requirement

Section 481 of the Foreign Assistance Act of 1961, which was added by Section 109 of the Foreign Assistance Act of 1971 (22 USC 2291), prohibits the furnishing of assistance under that or any other Act and the making of sales under title I of the Agricultural Trade Development and Assistance Act of 1954 with respect to any country which the President determines has not taken adequate steps to carry out the purposes of that section directed to the control of illicit production, trafficking in and, abuse of dangerous drugs.

Section 639 of the Foreign Assistance Act of 1961, as amended, provides that "No provision of this Act shall be construed to prohibit assistance to any country for famine or disaster relief." (22 USC 2399.)

[12]The language of 103(f) was amended by Section 201 of Public Law 96-53, 93 Stat. 368, August 14, 1979 to read as shown in the text, and replaced the following:

"(f) give special consideration to the development and expansion of foreign markets for United States agricultural commodities, with appropriate emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth;"

Expansion Development Foreign Markets

[13]The last paragraph of Section 102(a) of the Foreign Assistance Act of 1961, as amended by Pub. Law 90-137,81 Stat. 459, reads as follows:

Diplomatic Relations

"It is further the sense of the Congress that in any case in which any foreign country has severed diplomatic relations with the United States, the President should suspend assistance to such country under this or any other Act, including any program designed to complement assistance under this Act (such as sales of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954). When diplomatic relations are resumed, a further study should be made on a country-by-country basis to determine whether United States foreign policy objectives would be served by extending assistance under this or any other Act, including any program designed to complement such assistance." (22 USC 2151.)

Also see Section 620(t) of the Foreign Assistance Act of 1961, as amended, quoted in note 9.

[14]Amended by Pub. Law 93-86,87 Stat. 237, August 10, 1973 to add the following: "and that commericial supplies are available to meet demands developed through programs carried out under this Act;"

[15]Subsections (o), (p), and (q) of Section 103 were added by Pub. Law 90-436,82 Stat.450, July 29, 1968.

[16]Pub. Law 85-128,71 Stat. 345, August 13, 1957 (7 USC 1704a), provides that "Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof."

Report on Use of Foreign Currencies

[17]Pub. Law 89-677,80 Stat. 955, October 15, 1966, provides "That any foreign currencies held by the United States which have been or may be reserved or set aside for specified programs or activities of any agency of the Government may be used by Federal agencies for any authorized purposes, except (1) that reimbursement shall be

Report Use of Foreign Currencies

to this Act shall not be subject to this requirement: . . ." (list of projects ommitted.) (7 USC 1704b note.)

[23]Pub. Law 94-161,89 Stat. 852, Dec. 20, 1975 repealed Section 104(c), the so-called "Common Defense Grant" provision. Common Defence Grant

[24]"Agency for International Development" was substituted for "Advisory Committee on Voluntary Aid" in Section 104(f) by Section 121 of Public Law 96-53, 93 Stat. 366, August 14, 1979.

[25]The last sentence of Section 104(h) was added by Pub. Law 90-436,82 Stat. 450, July 29, 1968.

[26]Subsection (k) of Section 104 was added by Pub. Law 90-436,82 Stat. 451, July 29, 1968.

[27]Section 1415 of the Supplemental Appropriation Act 1953, provides that "Foreign credits owed to or owned by the United States Treasury will not be available for expenditure by agencies of the United States after June 30, 1953, except as may be provided for annually in appropriation Acts and provisions for the utilization of such credits for purposes authorized by law are hereby authorized to be included in general appropriation Acts." Public Law 547,82d Congress, 66 Stat. 662, July 15, 1952 (31 USC 724).

[28]Public Law 91-524, 84 Stat. 1379, November 30, 1970; amended this paragraph by adding "and in the case of currencies to be used for the purposes specified in paragraph (2) of Subsection (b) the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies."

[29]Public Law 94-161,89 Stat. 852, Dec.20, 1975, amended the provision following Section 104(k) to add after "The Senate Committee on Agriculture and Forestry" the following "and The Senate Committee on Foreign Relations" and after "The House Committee on Agriculture" the following "and The House Committee on International Relations."

[30]Section 102(b) (2) (C) Public Law 95-424, 92 Stat. 941, October 6, 1978 substituted "122 (b)" for "201".

[31]See note 7.

[32]Section 211 of The International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 551, August 3, 1977, further amended Section 106(b) (2) by deleting the following two sentences from the end thereof: "Such uses shall be deemed payments for the purposes of Section 103 (b) of this Act except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under title I of this Act. Such payments shall be described in the reports required by Section 408 of this Act and Section 657 of the Foreign Assistance Act of 1961."

Subsection 103(e) of the Foreign Assistance Act of 1961, as added by Section 203 of Public Law 94-161, 89 Stat. 851, December 20, 1975, and renumbered by Section 103(d) (2) (e) of Public Law 95-424, 92 Stat. 944, October 6, 1978, provides as follows:

"(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section." (22 USC 2151a (e).)

[33]Pub. Law 94-161,89 Stat. 852, Dec. 20, 1975, amended SEC. 106(b) by inserting "(1)" after "(b)" and by adding the last sentence of Section 106(b)' (1) and all of paragraphs (2) and (3).

[34]Section 901(b) of the Merchant Marine Act, 1936, 68 Stat. 832, as amended, 75 Stat. 565, provides in part:

[45]The word "as" is included in the Food for Peace Act of 1966, Pub. Law 89-808, 80 Stat. 1534.

[46]Section 201 (b) was amended by Pub. Law 95-88, 91 Stat. 547, August 3, 1977, by adding new paragraphs (1), (2), and (3).

[47]Section 121 of Public Law 96-53, 93 Stat. 366, August 14, 1979, substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid" and "Advisory Committee".

[48]Section 208 (a) of the International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 547, August 3, 1977, added the third sentence of Section 202 (a).

[49]Section 202 of Public Law 96-53, 93 Stat. 368, August 14, 1979, amended, SEC. 202 (b) (2) to read as shown in the text.

[50]Section 202 was amended by Pub. Law 95-88, 91 Stat. 547, August 3, 1977, by (1) adding "(a)" after "202," (2) to permit the utilization of foreign nonprofit agencies, (3) deleting the next to the last sentence in Section 202(a), and (4) by adding Subsection 202(b).

[51]Section 208(b) of Pub. Law 95-88, 91 Stat. 548 provides as follows: For purpose of implementing the amendment of Section 202, the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid[47] of foreign nonprofit voluntary agencies. (7 USC 1722 note.)

[52]Section 203 was amended by Pub. Law 95-88, 91 Stat. 548, August 3, 1977, with regard to utilization of points of entry abroad.

[53]Section 204 was amended by Pub. Law 95-113, 91 Stat. 956, September 29, 1977, to increase amount from $650,000,000 to $750,000,000.

[54]Pub. Law 94-161, 89 Stat. 854, Dec. 20, 1975, amended new Section 206 and Section 206 was amended by Pub. Law 95-88, 91 Stat. 548, August 3, 1977, to provide for distribution of food to neediest.

[55]Section 203 of Public Law 96-53, 93 Stat. 368, August 14, 1979, amended clause (3) to read as shown in the text. It was previously amended by Section 210 of the International Development and Food Assistance Act of 1977, Public Law 95-88, 91 Stat. 548, August 3, 1977, which read "(3) such agreement provides that currencies will be used for increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries." Providing Food to Neediest

[56]Former Sections 301, 302, and 303 of title III were redesignated as Sections 308, 309, and 310, respectively by Pub. Law 95-88, 91 Stat. 548, August 3, 1977.

[57]New Sections 301-307 of title III were added by Pub. Law 95-88, 91 Stat. 548, 549, 560, and 561, August 3, 1977.

[58]Prior Sections 304-308 of title III were repealed by the Food for Peace Act of 1966, Pub. Law 89-808, 80 Stat. 1535, November 11, 1966.

[59]Section 204 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added ", or the dollar sales value of the commodities themselves," in the first sentence and substituted "in the participating country of funds from the sale of such commodities or of the commodities themselves" for " of funds from the sale of such commodities in the participating country" in the second sentence.

[60]Section 205 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added paragraph (4).

[61]Section 204 (b) of Public Law 96-53, 93 Stat. 369, August 14, 1979, deleted "for each year such funds are to be disbursed" in the second sentence.

[62]Section 202 of Public Law 95-424, 92 Stat. 955, October 6, 1978, added Subsection (d).

[63]Section 203 of Public Law 95-424, 92 Stat. 955, October 6, 1978, designated the first paragraph of Section 305 as Subsection "(a)" and added Subsection "(b)".

[64]Section 206 of Public Law 96-53, 93 Stat. 369, August 14, 1979, added the last sentence of Subsection (a).

[75]Amended by Pub. Law 92-42, 85 Stat. 99, July 1, 1971, to add the following second sentence. See note 74 which amended this sentence.

"The foregoing provisions shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under title I of this Act which have as their purpose the expansion of export sales of United States agricultural commodities."

[76]Section 402 of title IV was amended by Pub. Law 95-113, 91 Stat. 956, September 29, 1977, to add:

"In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities."

[77]Section 403 of title IV was redesignated 403 (a) by Pub. Law 95-113, 91 Stat. 956, September 29, 1977.

[78]Section 403 (b) of title IV was added by Pub. Law 95-113, 91 Stat. 957, September 29, 1977.

[79]Section 209 of Public Law 96-53, 93 Stat. 370, August 14, 1979, amended Section 404 (a) to read as shown in the text and added Subsection (b).

[80]Pub. Law 94-161, 89 Stat. 855, amended SEC. 406 (a) by reassigning authority to administer the section provision from the Secretary of Agriculture to the President, and by amending Subsection (5).

[81]Office of Management and Budget.

[82]Amended by Pub. Law 90-436, 82 Stat. 451, July 29, 1968, and by Pub. Law 94-161, 89 Stat. 854, Dec. 20, 1975.

[83]Section 408 (b) of title IV was amended by Pub. Law 95-88, 91 Stat. 552, August 3, 1977.

[84]Section 408 (c) of title IV was amended by Pub. Law 95-88, 91 Stat. 552, August 3, 1977.

[85]Section 408 (d) and (e) of title IV were added by Pub. Law 95-113, 91 Stat. 957, September 29, 1977.

[86]Section 409 was amended by Pub. Law 95-113, 91 Stat. 957, September 20, 1977, to change the date from December 31, 1977 to December 31, 1981 and to add the following:

"New spending authority provided for title I of this Act by amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts."

[87]Section 620 (e) of the Foreign Assistance Act of 1961, Pub. Law 87-195, 75 Stat. 444, Sept. 4, 1961, as amended (22 USC 2370(e)) reads in part as follows:

Expropriation

"(e)(1) The President shall suspend assistance to the government of any country to which assistance is provided under this or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A) has nationalized or expropriated or seized or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B) has taken steps to repudiate or nulify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C) has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control

ID # 371270 CU

DM

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Mother Theresa

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Visit to Missionaries of Charity nuns in the United States

ROUTE TO:	ACTION		DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
WHolland	ORIGINATOR	85/12/19	AA		1 1
WHT18	Referral Note:				
	C/D	85/12/20	AA		85/12/29
	Referral Note:				
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ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
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F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
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A - Answered
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C - Completed
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FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
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5/81

THE WHITE HOUSE

WASHINGTON

April 11, 1986

MEMORANDUM FOR MAURICE C. INMAN, JR.
GENERAL COUNSEL
IMMIGRATION AND NATURALIZATION SERVICE

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Visas for Missionaries of Charity Nuns in the United States

In the attached letter to the President, Mother Theresa expresses her concern over the handling of certain visa applications made on behalf of members of her order. We would appreciate your review of this matter and a recommendation on a response (including whether the response should be from the White House or INS).

Many thanks.

LDM

MISSIONARIES OF CHARITY

371270

335 East 145th Street,
Bronx, New York 10451.

December 14th, 1985.

The President of the United States of America,
The White House,
Washington D.C. 20805.

REDACTED

Dear President Reagan,

Once again I am writing to ask your help with regard to obtaining visas for our Sisters in the U.S.A. Since I was last in contact with you the then Regional Superior of our Sisters in the U.S., Sister Priscilla, met with Mr. Thomas Simmons, Deputy Assistant Commissioner of Adjudications in Washington D.C. and it was agreed that (apart from Novices who are entitled to, and obtain without difficulty, H-3 visas; and Superiors who are in a similar position with regard to L-1s) that we would apply for B-1 visas for our Sisters. Mr Simmons advised us to apply for B-1s for a year at a time and also that we should apply for a waiver of fees.

Although we had asked you about the possibility of being granted B-1s for duration of status (i.e. as long as we remained religious) we were told this was not possible. We have therefore applied for B-1 visas for all our Sisters who were not in formation or Superiors. Our applications to New York have all been successful, although they will only grant B-1s for six months at a time instead of the full year for which we asked. Other IMS offices (see enclosed copies of our application for a B-1 visa for one year for Sister M. Marlene M.C. made to Louisville, KY) have granted the full year.

What alarms me is that two recent applications for B-1 visas, made in exactly the same way as previous applications, have been rejected. (See copies of enclosed correspondence relating to [redacted]. The grounds for the rejection seem to be that no definite date was given for a departure from the U.S. It is impossible for us to give such a date for reasons I have discussed with you before, and this date has not previously been insisted on. The other grounds for rejection is that "You have failed to establish that the purpose for which you were admitted has not been accomplished and that your requested extension is not merely an attempt to prolong your stay indefinitely."

If B-1 visas are denied to us we cannot remain in the U.S. to serve God in the persons of the poorest of the poor. I beg you, in the Name of God, who has called us here to show His love and concern for the poor to help us to obtain the visas we need . Be sure that we remember you very specially in our prayers and sacrifices.

God bless you
Mother Teresa MC

MOTHER M. TERESA M.C.

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THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 2 LISTED ON THE WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

LJM

MISSIONARIES OF CHARITY

335 East 145th Street,
Bronx, New York, N.Y. 10451.

20 October 1984.

The President of the United States of America,
The White House,
Washington D.C. 20805.

Dear President Reagan,

I am writing to ask your help in the matter of obtaining visas for our sisters for the U.S.A. Over the past year it has become more and more difficult for them to be granted either L-1 or H-3 visas, and we have now reached the point where the only kind of visa the Immigration and Naturalization service are prepared to grant us is a B-1 visa for six months.

At the moment we are exactly 113 sisters in the U.S.; this figure includes aspirants, postulants and novices. Out of these 113, only 25 are U.S. citizens. Most of our U.S. sisters are working outside their own country, as ours is a missionary congregation. And we now have sixteen houses in the U.S.
If we have to apply for 88 visas every six months, apart from the expense (which means that money we could spend on the poor has to be spent on visas), we will need a sister to work full time only on visas. We have never had sisters in any country purely for administration. It would be sad if America were the first country to turn our sisters into bureaucrats.

Please can you help us? Until about June this year we were being granted L-1 visas for our more experienced sisters: those with particular skills, those marked to be Superiors of houses, and so on. Equally the H-3 visa was granted without any difficulty for sisters wanting to come to the U.S. to train as postulants and novices. (They come here either because the U.S. is the nearest country where there is a postulancy or novitiate, or as part of an exchange. For instance two European sisters come to the U.S. novitiate and two U.S. sisters then have the chance to go to the European novitiate in Rome.) The other H-3 category for us is some of our Junior Sisters who come to the U.S. to acquire experience of our apostolate here.

From this summer on we have had one rejection after another of our petitions for L-1s and H-3s. If you want further details about the rejections the sisters would be able to give them straightaway. We have now reached the point where the only visa left open to us (for how long?) is the B-1 visa, valid for six months.

In the name of God who has called us to serve Him here in the persons of the poorest of the poor I ask you if there is any way the sisters can again be granted H-3 and L-1 visas as they used to be, so that they may continue their work of love and adoration of God in your country. We thank God for whatever help you may be able to give us.

Please be sure of a special place in our prayers and sacrifices.

God bless you
Mc Teresa me

MOTHER M. TERESA M.C.

THE WHITE HOUSE

WASHINGTON

February 27, 1986

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Revised DOJ Report on H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985"

Counsel's Office has reviewed the above-referenced revised DOJ report and finds no objection to it from a legal perspective.

ID # _____ CU

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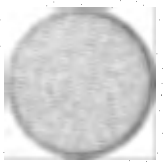
CORRESPONDENCE TRACKING WORKSHEET



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Name of Correspondent: James Muir

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Revised DOJ report on H.R. 3810 to Immigration Control & Registration Amendments Act of 1985"

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
WHOLL	ORIGINATOR	86/02/27			/ /
	Referral Note:				
What IS	R	86/02/27		S	86/03/03
	Referral Note:				RN
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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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February 26, 1986

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Department of Agriculture
Department of Commerce
Department of Education
Department of Health & Human Services
Department of Housing & Urban Development
Department of Labor
Department of State
Department of the Treasury
Small Business Administration
National Security Council
Council of Economic Advisers

SUBJECT: REVISED Department of Justice report on H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than NOON -- March 3, 1986.
(NOTE -- We have been advised by Justice that this version generally reflects changes agreed upon at the 2/21 interagency meeting. Portions of the report discussing record-keeping requirements and status verification requirements for aliens applying for certain benefits may need to be changed when a position on these issues is determined. Agency comments on other sections of the report should be limited to significant concerns, if any, provided in writing, and signed by an appropriate policy official.)
Direct your questions to Branden Blum (395-3454), the legislative attorney in this office.

James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: Fred Fielding, John Cooney, Tara Treacy, Mike Margeson, Sara Brentlinger, Phil Hanna, Kathy Burchard, Andrea Hoffman, Frank Seidl, Roger Greene

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Peter W. Rodino, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your request for the Department of Justice's views on H.R. 3810, the "Immigration Control and Legalization Amendments Act of 1985." The Department supports enactment of this legislation with certain major and several minor revisions.

This Administration has consistently supported immigration reform, and the pressing need for legislation remains. We are pleased that you and Congressman Mazzoli are sponsoring H.R. 3810. We look forward to working with your Committee.

EMPLOYMENT OF UNAUTHORIZED ALIENS

SECTION 101

Section 101 of the bill amends present Section 274 of the Immigration and Nationality Act (the Act) to provide penalties for employers who commit two types of offenses: (1) knowingly hiring an alien who is not authorized to work; and (2) failing to comply with the requirements of the Employment Verification System.

Employment Verification

An employer must verify that each applicant for employment ("applicant") has established his or her authorization to work in the United States, including examining an applicant's identifying documentation and employment authorization. The applicant must also attest that he is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien authorized by the Attorney General to be employed. The employer must retain these records for a period of time specified by the Attorney General. Good-faith compliance with these requirements is an affirmative defense to a charge that the employer has knowingly employed an unauthorized alien.

Hearing Process

Section 101 also provides for a hearing, before an administrative law judge, to determine whether a violation has occurred. An employer who requests a hearing may, within 60 days of an adverse decision, file a petition for review with the appropriate court of appeals, of the administrative fine. If no hearing is requested, the fine assessed shall not be appealable. If the assessed penalty is not timely paid, the Attorney General must file a suit in a district court to enforce payment.

Delayed Effective Date

The penalty provisions have a delayed effective date. For the first six months after enactment, the Attorney General and the heads of certain Departments and agencies must disseminate information on these provisions, and no penalty may be imposed or proceeding conducted for a first violation. In the subsequent twelve months, the Attorney General is authorized to issue citations of violations. Again, no penalty may be imposed or proceeding conducted during this time.

Anti-discrimination Provisions

Section 101 also contains extensive procedures for dealing with discrimination in hiring or discharging based on an individual's national origin or citizenship status. The coverage is broad, encompassing citizens, "intending citizens," aliens who are permanent residents, aliens temporarily admitted under the "amnesty" provisions, and aliens granted either refugee status or asylum, and who have completed a declaration of intention to become a citizen.

All employers are subject to this anti-discrimination provision, except that claims of national-origin discrimination are barred if: (1) the complainant is covered by Section 703 of the Civil Rights Act of 1964; or (2) United States citizenship is required by Federal law, regulation, or executive order, a Federal, State or local-government contract, or by order of the Attorney General; or (3) English-language skill is a bona fide occupational qualification reasonably necessary to the normal operation of the enterprise.

An employer found to violate these provisions may be ordered to maintain a record-keeping system for all applicants, to hire or re-hire individuals directly and adversely affected by the employer's hiring or discharge practices, with or without back pay, to pay a civil penalty of $1,000 for each individual discriminated

against and to pay attorneys fees. A penalty of $2,000 per violation may be assessed against an employer previously found to have engaged in discrimination.

Procedurally, a person may complain to a Special Counsel appointed by the President with the advice and consent of the Senate. The Special Counsel must investigate all such complaints, to determine whether there is reasonable cause to believe that the charge is true. If so, then the Special Counsel may bring a complaint before an administrative law judge, who must be specially designated and trained by the Attorney General. The administrative law judge may subpoena witnesses and evidence, and hold hearings. Subpoena enforcement rests with the district courts.

An administrative order issued under this provision may be reviewed within 120 days under Section 10 (d), (e), (f), (g), and (j) of the National Labor Relations Act. The Special Counsel will exercise the powers of the National Labor Relations Board's General Counsel as specified by that Act.

Penalties

For a first offense, under Section 101, an employer is subject to a $1 - 2,000 civil penalty for each unauthorized alien. For a subsequent offense, an employer is subject to a $2 - 5,000 fine for each unauthorized alien. An employer who engages in a pattern or practice of violations would be subject to a fine of $1,000, six-months imprisonment, or both. The Attorney General is authorized in such a case to bring a federal civil action to seek relief such as injunctions or restraining orders.

Violating the paperwork provisions of the Employee Verification System, subjects an employer to a $1,000 civil penalty for each individual for whom the employer failed to comply.

Comments

Barring the employment of unauthorized aliens is fundamental to curtailing illegal immigration. The Department supports Section 101 but suggests some revisions. Civil penalties should be fixed at specific amounts and not set within ranges. Fixed, specific fines would reduce potential litigation, and promote consistency in the assessment of fines. Moreover, fixed civil penalties will sufficiently deter the employment of unauthorized aliens; accordingly, we oppose criminal penalties, except possibly in "pattern and practice" situations.

Employers of three or fewer persons should be exempted from the record-keeping requirement, with mandated record-keeping if violations occur.

The bill's anti-discrimination provisions are both unnecessary and overly inclusive. Existing national-origin civil rights laws are sufficient protection for all from unfair treatment. Existing federal agencies are able to investigate and deal with discrimination on this basis. No new administrative law judges are needed, since the present immigration judges, already familiar with immigration laws, can readily handle the work. Creating new bureaucracies and uncontrollable new case loads is unwise, unnecessary and unacceptably expensive.

FRAUDULENT USE OF IMMIGRATION DOCUMENTS

SECTION 102

Section 102 of the bill amends 18 U.S.C. 1546 to bar the fraudulent use of certain documents to establish employment authorization. Fines for such activity are increased from $2,000 to $5,000. Likewise, the use of a false identification document or a false attestation is prohibited. The penalty for violating this section is a $5,000 fine, or two years imprisonment, or both.

Comments

Employer sanctions will likely increase the manufacture and use of immigration documents for fraudulent purposes. Penalties of the type and magnitude contemplated by Section 102 should help deter this activity. We oppose establishment of the system to validate Social Security account numbers. Instead, we prefer the scheme that is included in § 121 of S. 1200, as passed by the Senate. This section requires the President to implement changes in the verification system to establish a secure system to verify employment eligibility. Any new system must reliably verify that an applicant is the person he claims to be and that such a person is eligible to work. Under § 121, if the new system will involve examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering.

AUTHORIZATION OF APPROPRIATION FOR ENFORCEMENT AND SERVICE ACTIVITIES OF INS

SECTION 111

Section 111 provides for increased funding to increase INS enforcement and service activities, authorizing, for fiscal years 1986 and 1987 respectively, 422 million dollars and 419 million dollars over the regular authorization. These sums are to increase the border patrol and other INS enforcement activities to ensure prompt and efficient adjudications of applications under the Act. The funding is also to be used to improve out-reach programs and in-service training of INS personnel. We support increases of the magnitude proposed in the Senate bill and last year's conference bill. We believe these amounts will be sufficient for INS to carry out its increased activities. These activities result in apprehending more than one million illegal aliens each year. Compared to the same time period last year, there has been a forty percent increase in the number of illegal aliens that have been apprehended. Increased funding will enhance INS's enforcement activities and will also help to improve INS's service related activities. We support the increased authorizations.

Section 111(d) bars the INS from acquiring or installing data processing equipment. Section 111(d) should be dropped. These provisions are unnecessary, and will further delay sorely needed data automation systems. Further, the sole basis for inclusion of this provision has been the incorrect assumption that data systems contracts were improperly granted. This is not the case. Congress has mandated that federal interagency information sharing efforts should be automated and brought up to date. The Office of Management and Budget has directed INS and State to draft proposals for future ADP planning to include electronic data exchange and technology development. This section will prevent such planning from occuring within the time frame provided by the budget process.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SECTION 112

Section 112 amends existing Section 274(a) of the Act to pro-

vide criminal penalties against anyone who unlawfully transports aliens to the United States. Criminal penalties can be imposed when: (1) a person knowingly brings or attempts to bring to the United States an alien at a place other than a port of entry or a place not designated by the INS Commissioner; (2) a person knowingly transports or moves, or attempts to transport or move, an illegal alien within the United States; (3) a person knowingly conceals, harbors, or shields from detection an alien; or (4) a person knowingly brings or attempts to bring an alien to the United States in any manner whatsoever. A person who violates any of the first three provisions can be fined up to $10,000, and imprisoned for up to five years. For the fourth provision, a fine of not more than $5,000, or imprisonment of not more than one year, or both can be imposed for each violation. A second offense, or an offense committed for commercial advantage or private financial gain, can result in a fine of not more than $10,000 or imprisonment for not more than five years, or both.

Comments

We support this section. It will reverse the judicial construction of Section 274 of the Act in United States v. Anaya, 509 F.Supp. 289, P. 297 (S.D. Fla. 1980), where the court held that Section 274 "was designed by Congress to prevent aiding and abetting the illegal entry of aliens into the United States in a fraudulent evasive or surreptitious manner." (emphasis added)

We propose two changes, first, subsection (a)(1)(C), should be amended to include language relating to attempts to conceal, harbor or shield. This language appears in subsection 274(a)(3), and should be retained. United States v. Cantu, 557 F.2d 1173 (5th Cir.), reh. den. 561 F.2d 831, cert. den. 434 U.S. 1063.

Second, language incorporating the present subsection 274 (a)(4), should be added. This provision subjects to criminal sanctions "any person . . . who willfully or knowingly encourages or induces or attempts to encourage or induce, either directly or indirectly the entry into the United States of any alien . . .not duly admitted by an immigration officer . . ." This provision has proven to be a useful tool in combatting alien smuggling. See, United States v. Nunez, 668 F.2d 10 (1st Cir. 1981); United States v. Castillio-Felix, 539 F.2d 9 (9th Cir. 1976). Moreover, this is the only provision in Section 274 that has extra-territorial application. See, Nunez, supra; United States v. Correa-Negron, 462 F.2d 613 (9th Cir. 1972), and cases cited therein.

TREATMENT OF IMMIGRATION EMERGENCIES

SECTION 113

Section 113 amends the Act's existing Section 103 to direct the Attorney General to develop a contingency plan in the event of an immigration emergency. This section also establishes an immigration emergency fund of 35,000,000 for use in such emergency. Before monies can be withdrawn from this fund, the President must determine that an immigration emergency has occurred, and must so certify to the House and Senate Judiciary Committees.

Comments

This section, as drafted, does not provide the President with any new legal authority. We oppose the specific authorization provision. The Administration will request such funds as needed.

RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS

SECTION 114

Section 114 amends existing Section 287 of the Act to restrict warrantless entries into open fields used for agricultural purposes. INS officers may not enter outdoor agricultural areas without a warrant or the consent of the owner or his agent, to interrogate persons as to their right to be in the United States. The only exception to these requirements is existing Section 287(a)(3), which permits access to private lands within 25 miles of the border.

Comments

The Department of Justice strongly opposes this provision, and urges that it be entirely deleted. The Supreme Court in Oliver v. United States, 104 S.Ct. 1735 (1984), held that the Government's entry onto an open field is not a search in the constitutional sense, and no privacy expectation can attach to such fields. Under this provision, INS will be the only law-enforcement agency precluded from entering "open fields," and this will curtail a major aspect of INS's enforcement operations.

This section undercuts one of the principal reasons for immigration reform, namely, the control of illegal aliens and the concurrent enhancement of INS enforcement capabilities. Specifi-

cally, INS will be unable to verify and monitor the employment of temporary workers in agriculture. This provision is especially undesirable if a special temporary agricultural program is enacted for the benefit of growers of perishable commodities.

OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS

SECTION 121

Section 121 establishes a verification requirement for persons applying for benefits under the AFDC, Medicaid, Unemployment Compensation and Food Stamp Programs. Each applicant or recipient must present proof of citizenship, or proof of immigration registration if the person is not a citizen. The state must verify an alien's status through the INS so that the agency administering the program may determine the alien's eligibility for the benefits.

In addition, this section provides a definition of "Permanently Residing in the United States Under Color of Law" (PRUCOL) for purposes of the Social Security Act, the Unemployment Tax Act and Section 484 of the Higher Education Act of 1965. Basically, the definition limits "PRUCOL" to refugees, asylees, persons granted withholding of deportation, registrants under Section 249, aliens paroled into the United States, and persons granted deferred action.

Comments

The Department strongly supports Section 121. The "Systematic Alien Verification for Entitlements" Program (SAVE) presently in effect on a limited basis, has shown the practical and fiscal usefulness of this approach, and it has been enthusiastically supported by participating states. The definition will go far to reduce the amount of litigation generated by the term "PRUCOL", as well as to curb the inclination of courts to expand this category to include persons who are not lawfully in the United States. We note that under the current application of § 212(a)(6) concerning public charges, the Department does not believe that these individuals would be eligible for participation in the legalization program. Our Department along with the Department of Health and Human Services have drafted an amendment, which clarifies the definition of PRUCOL and other problems with the SAVE program. A copy of the amendment is attached for your review. Finally, given the nature of the guaranteed student loan

program, efforts will be made by the Department of Education to implement the SAVE program in a manner that is consistent with Section 121. One requirement in H.R. 3810 for participation in the legalization program is that the alien be in an "unlawful status", but the term is not defined. It is not clear whether this requirement would bar participation in the legalization program by Supplemental Security Income/Aid to Families with Dependent Children (SSI/AFDC) recipients who are permanently residing in the United States under color of law. We recommend, as a technical clarification, that the bill provide that SSI/AFDC recipients who are PRUCOL and have no current legal immigration status could participate in the legalization program.

LEGALIZATION STATUS

SECTION 201

Section 201 legalizes the status of certain aliens unlawfully in the United States. In general, this sanction applies to an alien who entered the United States prior to January 1, 1982, and who has continuously and unlawfully resided in the U.S. since January 1, 1982. The alien must also show that he has continuously, physically resided here since enactment. An alien shall not be considered to have failed to maintain continuous physical presence in the United States for a brief, casual, and innocent absence from the United States. In the case of the nonimmigrant, the alien must show that his period of authorized stay expired before January 1, 1982, through the passage of time or that the alien's unlawful status was known to the Government on that date.

Although eligibility is specifically confined to aliens who have entered the United States, an exception is made for "Cuban/Haitian Entrants (Status Pending)" described in paragraph (1), or (2)(a), of Section 501(e) of Public Law 96-422. Persons in this category are deemed to have entered the United States for purposes of this section.

The applicant must also show that he is admissible as an immigrant with certain grounds of admissibility specifically waived, and others which may be waived in the discretion of the Attorney General. The applicant is not admissible if he has been convicted of any felony, or has committed three or more misdemeanors in the United States.

An alien who meets these requirements shall be granted temporary resident status. Twelve months after this grant, the alien

must apply for permanent resident status, and must do so within the next twelve months. If he does not, then his temporary resident status automatically expires on the twenty-fifth month following the date it was granted.

A temporary resident may seek to adjust his status to permanent resident if he can establish continuing eligibility for temporary resident status, plus several additional criteria. He must show that he has not meaningfully interrupted his continuous physical presence in the United States, and that he has attained a minimal understanding of ordinary English, and a knowledge or understanding of the history and government of the United States, or he is satisfactorily pursuing a course of study in these fields.

An alien apprehended in the United States prior to the start of the application period who can establish a "nonfrivolous case of eligibility" for temporary residence may not be deported, and is authorized to work at least through the first thirty days of the application period. An alien apprehended during the application period is also not deportable, if he or she makes a nonfrivolous application, until after a final determination is made on the application. He is also authorized to work.

Administrative and judicial review of determination

An applicant denied temporary or permanent resident status is entitled to appeal to an administrative authority established by the Attorney General. This review is to be based "solely upon the administrative record" of the application, although updating the record is permitted.

Judicial review of denial of an application for temporary or permanent residence is to be based "solely upon the administrative record" as part of an order of deportation. The court may review the record for abuse of discretion, or to determine if the findings are directly contrary to clear and convincing facts contained in the record as a whole.

Disqualification from certain public-welfare benefits

An alien granted temporary resident status is generally ineligible for certain public welfare assistance programs for five years beginning with obtaining that status. The Attorney General will identify the programs covered in consultation with other federal agencies and departments. Participation in the Medicaid and Food Stamp programs is specifically prohibited. In addition,

State and municipal governments may refuse financial or medical assistance to aliens in this category. Exceptions are made for "Cuban/Haitian Entrants (Status pending)," aged, blind or disabled individuals, aliens under 18 years of age and pregnant women.

For purposes of this section, "financial assistance" is defined not to include certain programs such as the National School Lunch Act, the Child Nutrition Act of 1966, the Headstart-Follow Through Act and others.

Comments

The Department supports the concept contained in Section 201 but certain revisions are necessary to establish a workable, cost-effective program. We believe that a January, 1980, cut-off date is preferable to January 1982. A 1982 cut-off date will result in entry of aliens who have no pressing claim to remain here permanently. A 1982 date will encourage more aliens to enter illegally, and attempt to establish eligibility fraudulently. It will substantially increase the cost of the legalization program. The 1980 date, by contrast, will benefit illegal aliens who have been in the United States for a significant period of time.

The provisions for both administrative and judicial review of applications for adjustment of status are unnecessary and likely to significantly increase the costs of administering this provision, particularly since this section makes no distinction between review of temporary and permanent resident applications. The Department considers a single administrative review sufficient to safeguard the interests of an applicant.

The provisions relating to administrative and judicial review are also ambiguous. Administrative review is to be limited to the record existing at the time an application is denied, but the record on review may be updated. Judicial review is to be based solely upon the administrative appellate authority. Its findings and determinations are to be conclusive, unless the court finds an abuse of discretion or that the "findings are directly contrary to clear and convincing facts." These standards of review are not the same, and will only invite controversy and litigation.

The Department also believes that the provisions relating to "brief, casual and innocent" absences from the United States will be extremely difficult to administer. Application of this standard is not supported by Rosenberg v. Fleuti, 374 U.S. 449 (1963). Fleuti applied only to lawful permanent resident aliens; not aliens illegally in the United States. We suggest that absences

of a specific period of time, i.e., no more than fifteen days in the aggregate, from the date chosen for legalization, constitute the qualifying limit. The bill should also specifically state that absences related to violations of the immigration laws would automatically interrupt the physical presence requirement, regardless of the period of absence.

The Department finds particularly objectionable Section 201 (b)(5)(c), which provides for five years imprisonment and a $5,000 fine for using, publishing or permitting information from legalization files to be used in an unauthorized manner. No intent to disclose is required, and the penalty is greatly excessive. By contrast, Section 102 provides only two years imprisonment for the fraudulent use of documents. The Department strongly urges that Section 201(b)(5)(c) be deleted. Information may be safeguarded by disciplinary proceedings against government employees who engage in unauthorized disclosure.

The Department has several problems with the bill's disqualifications from certain public-welfare benefits. It has been estimated that the exceptions for aliens who are aged, blind, or disabled under 18 years of age and pregnant women, will result in aliens applying for 99 percent of the Medicaid services. H.R. 3810 does not base eligibility determinations for medical assistance upon the financial criteria that is used in the Medicaid program. Consequently, the bill would confer presumptive Medicaid coverage on the entire "exempted" alien population. Additionally, certain programs for which newly legalized aliens should logically be eligible are absent from the list of education programs. This provision could prove to be an administrative nightmare for the Department of Education, the States, and local educational agencies if an attempt was made to exclude the newly legalized aliens from certain programs while including them in others.

We are concerned that there is no provision in H.R. 3810 relating to assistance furnished on a basis other than financial need. Certain merit-based education programs, such as the tuition portion of the National Graduate Fellows Program (20 U.S.C. 1134 (h) et seq.) and certain international education programs, may be affected. H.R. 3810 may imply that newly legalized aliens are eligible for these merit-based programs despite their temporary resident status, which would normally be insufficient for eligibility in accordance with the Department of Education regulations. We support addition of language stating that nothing in the bill is designed to affect eligibility for non-need-based programs.

Finally, including certain TRIO (Special Programs for Students from Disadvantaged Backgrounds.) programs on the list of prescribed education programs presents substantial problems for institutions of higher education and for student aid. In certain programs, if a participant was a newly legalized alien and thus under H.R. 3810 ineligible for Federal student aid, a participating institution could be faced with a substantial and unexpected demand on its resources. Under such circumstances, it is conceivable that some schools would withdraw from the program, resulting in the denial of program benefits for other disadvantaged students.

In view of these problems, the Department objects to proposed Section 245A(h)(3) of the Act as drafted. It should either be clarified to contain merely an illustrative list of programs that newly legalized aliens would be eligible for (with the TRIO programs discussed above deleted), or that provision should be deleted in its entirety.

We are also concerned about the proposed requirement that the Attorney General must approve courses of study in English and American history and government in order to satisfy the bill's requirements. This course-approving function could potentially require a very substantial commitment of the Attorney General's time and resources. Additionally, this provision might create strong pressure for federal funding for courses to satisfy this requirement. A provision stating that no new federal funds are to be authorized or expended would provide a simple remedy to this issue.

In addition, we note that there are certain technical changes which may be necessary such as waivers of standard government personnel, procurement, contracting, real and personal property, printing, and forms-clearance requirements.

CUBAN-HAITIAN ADJUSTMENT OF STATUS

SECTION 202

Section 202 provides for the adjustment of status to permanent resident of all Cuban or Haitian nationals who fall within two categories. The first consists of those persons who have been designated "Cuban/Haitian Entrants (Status Pending)." The second consists of those Cuban and Haitian nationals who arrived in the United States before January 1, 1982, and with respect to whom INS established a record as of that date. A Cuban or Haitian national

admitted as a nonimmigrant who did not apply for asylum before that same date is not eligible for adjustment of status.

The applicant must also be otherwise eligible for admission as an immigrant, except for the documentary requirements of section 212(a) of the act, and not come within section 243(h)(2) of that Act. The alien must be physically present in the United States on the date the application is filed, and also have continuously resided in the United States since January 1, 1982. An applicant has two years from the date of enactment to apply. If adjustment of status is granted, a record of permanent residence as of January 1, 1982 will be established. A grant of adjustment of status under this section will not count against the immigrant visa allocation for either Cuba or Haiti.

Comments

Separate procedures for adjustment of status of "Cuban/Haitian Entrants (Status Pending)" are unnecessary. Section 201 specifically confers eligibility for legalization upon the same persons covered by this provision. There is no substantial reason to accord these Cuban and Haitian nationals preferential treatment. All aliens unlawfully in the United States should meet the same eligibility requirements, regardless of the country of origin, a principal adopted in the 1965 amendments to the Act. The Cuban Adjustment Act of 1966 should be repealed.

STATE LEGALIZATION ASSISTANCE

SECTION 204

Section 204 directs the Secretary of Health and Human Services to reimburse States for all of the costs of public assistance provided to any legalized alien, such as those which provide cash, medical or other assistance designed to meet basic subsistence or health needs, or public health interests.

Comments

The requirement for 100-percent reimbursement should be dropped. While there may be costs associated with the legalization program which may fall on the States, we believe that the newly legalized population will be an asset to the States, consisting of productive, hard-working people. Similarly, education has always been a State responsibility, and no States currently bar the education of illegal alien children. Accordingly, we see no rationale for Federal reimbursement.

The Administration is strongly opposed to the 100 percent reimbursement requirement for public assistance, but does support a capped authorization of $600 million a year for three years -- as contained in S. 1200, as reported -- to help states meet the costs of such assistance.

Finally, the SAVE program shows that states can save millions by appropriately verifying the status of applicants for assistance, and by not paying benefits to illegal aliens.

H-2A WORKERS

SECTION 301

Section 301 establishes a nonimmigrant classification for temporary agricultural workers (H-2A), and adopts a new program for admitting them. A labor certification shall not be issued under certain circumstances, e.g., a strike or lockout during a labor dispute; employer violation of a previous labor certification; or employer failure to provide workers' compensation, if not otherwise covered by State law.

Rules for consideration of applications

Applications must be filed with the Secretary of Labor not more than sixty days before an employer requires the services of a temporary worker. The employer must be notified within seven days of the filing if the application is deficient. The certification must be made not later than twenty days before the employer requires the services of a temporary worker. The certification remains effective only if the employer continues to accept for employment, qualified individuals who apply or are referred to him until the date when the H-2A workers depart to work for the employer. The employer would be required to offer housing. An H-2A petition may also be filed by an agricultural association. When a petition is denied because there are sufficient workers who are able, willing and qualified, or because employment of the temporary worker will adversely affect the wages and working conditions of similarly employed U.S. workers, there is an expedited administrative appeal.

In administrative appeal circumstances, the Secretary of Labor must make a new determination within 72 hours of a request. The employer has the burden of proof to establish that an eligible U.S. worker is not able, willing, or qualified to perform the requested labor.

The temporary worker cannot be admitted for longer than that determined by regulation. He may also not be admitted if in the previous five-year period he had violated the terms of his admission.

Funding

Section 301 also authorizes the appropriation, for fiscal year 1987 and after, of 10 million dollars, to recruit domestic workers for temporary services, and to monitor the H-2A program. The Secretary of Labor is authorized to impose appropriate penalties and seek appropriate relief to ensure an employer's compliance with the terms of the employment. The Secretary is also authorized such sums of monies as may be appropriate to make H-2A determinations and certifications.

Advisory Commission

Subsection 301(f) expresses the sense of Congress that the President should establish an advisory commission to consult with governments and advise the Attorney General regarding the operations of the H-2A program.

Comments

The H-2 program reforms contained in Section 301 of H.R. 3810 fall considerably short of the Administration's goal of creating a viable and improved H-2 program. While not perfect, however, the H-2 provisions of S. 1200 in general are preferable to those contained in H.R. 3810. We believe these provisions, in the context of S. 1200, provide a viable means for improving the H-2 program in the context of overall immigration reform.

The Administration has carefully drafted the following Statement of Principles to meet divergent and complex needs.

STATEMENT OF PRINCIPLES - ADMINISTRATION

COMPROMISE AGRICULTURAL WORKER PROPOSAL

Seasonal Worker Program

- The Administration supports the creation of a seasonal worker program to address the particular labor needs of growers of perishable commodities.

- Any workers admitted under such a program would be admitted only for the purpose of doing field harvest labor for truly perishable commodities.

- Migrant and Seasonal Worker Protection Act shall apply to any field harvest laborers admitted under such a program with regard to job disclosure, working conditions, housing, transportation and wage determination.

- Two years after the effective date of any such program, the Agricultural Worker Commission will set a cap on the total number of workers to be admitted in the subsequent year; on an annual basis thereafter, the statute will provide that the Commission lower the cap annually by not less than 5% nor more than 20%; the Commission would have the discretion to determine the precise percentage decline within that range and could, for one year only, suspend the decline altogether if exceptional circumstances warranted such suspension.

- In setting the cap and subsequent rates of decline, the Commission will consider labor market conditions and the abundance of crops.

- State Department concerns with respect to the operation of such a program in foreign countries will be appropriately addressed.

H-2 Program

- DOL, acting independently and in response to recommendations from the Agricultural Worker's Commission, will take meaningful steps to improve the H-2 program as a workable and acceptable means of meeting shortages in the domestic agricultural labor market.

- The Administration supports S. 1200's temporary worker reforms except that the Secretary of Labor will issue the regulations governing labor certification under this program after meaningful consultation with the Departments of Justice and Agriculture. Both the regulatory authority provision and the consultation requirement will be statutory.

Search Warrant Provision

- The Administration strongly restates its opposition to the imposition of an open field search warrant requirement over immigration law enforcement officers.

Additionally, the Administration opposes Section 301(f). The United States has already established lines of communication with the government of Mexico and other sending countries on immigration matters, with particular regard for the protection of foreign worker's rights in our country. We believe that the establishment of an additional channel of these foreign governments would be inappropriate, and would conflict with the Executive Branch's ongoing responsibilites for international consultations and regulatory control of Federal programs.

CHANGE IN COLONIAL QUOTA

SECTION 311

The quota for immigrants born in a colony, as set forth in Section 202(c) of the Act, is increased from 600 to 3,000, starting with fiscal years beginning after enactment.

Comments

The Department supports increasing the colonial quota, but recommends that it be raised to 5,000 to meet projected demand particularly from the nationals of Hong Kong, in consideration of this Colony's transfer of sovereignty in 1997 from the United Kingdom to the People's Republic of China.

STUDENTS

SECTION 312

Section 312 requires a two-year foreign residence for nonimmigrants admitted as students. The Attorney General may waive, under certain circumstances, the foreign-residency requirement for alien students, if he determines that the waiver is in the public interest.

If the alien applies for a nonimmigrant visa he must meet additional requirements. Moreover, the alien must annually furnish an affidavit attesting that he is in good standing with the training program, and will return to his country upon completion of the program. Section 312 would also make certain other amendments relating to adjustment of status and deportation.

Comments

We oppose Section 312. The two-year foreign residence requirement will be burdensome on bona fide students and U.S. employers. It will also create a strong impetus for students to enter into fraudulent marriages to circumvent the foreign-residence requirement. The Administration must express its concern in dropping the distinction between private students and sponsored exchange visitors as this bill provides. Under the proposed change, the two-year residency requirement to which certain visitors are subject will also apply to most private students. Even when originally applied across the board to the much more limited number of exchange visitors, the two-year foreign residency requirement created hardship for individuals and for the United States government and private organizations, schools and hospitals. The move in 1970 to a selective application of the two-year requirement reflected Congressional understanding of concerns which are peculiar to this Country's program of educational and cultural exchange.

In addition, H.R. 3810 does not provide a student with the benefit of all four bases for a waiver as it does for most of the exchange visitors. Consequently, including them in such a requirement will generate an administrative burden for our consular personnel abroad. We believe that there will be a considerable increase in the number of complaints about the hardships generated and the arbitrariness of the requirement.

G-IV SPECIAL IMMIGRANTS

SECTION 313

Section 313 would add a special immigrant category to benefit officers or employees of international organizations and their immediate family members. An individual could qualify for special immigrant status if he resided in the United States for only seven out of twenty-one years, as long as he had resided for some unspecified time in the United States within the last seven years. In contrast, an alien who has been employed by the United States abroad must have "performed faithful service for a total of fifteen years, or more," to qualify as a special immigrant.

Comments

We oppose Section 313 because it would grant an unnecessary special preference.

SECTION 314

Section 314 provides authority to establish a pilot visa-waiver program for certain nonimmigrant visitors. The waiver would apply to visitors from countries providing a reciprocal waiver for U.S. citizens.

Comments

The Department of Justice supports the visa-waiver program. The program will facilitate legitimate travel to and from the United States.

MISCELLANEOUS PROVISIONS

SECTION 315

Section 315(a) gives equal treatment to fathers to allow immigration benefits for an illegitimate child. This amendment overrules Fiallo v. Bell, 430 U.S. 787 (1977), which held that an illegitimate child can claim immigration benefits only through its mother. We support 315(a) because it provides equal treatment without regard to a parent's sex.

Section 315(b) permits an alien to maintain continuous physical presence if his absence from the United States was brief, casual, and innocent. This amendment would overrule INS v. Phinpathya, 104 S.Ct. 584 (1984), which held that any absence, however brief, breaks the continuity of physical presence.

Comments

We oppose this amendment because its vagueness invites judicial lawmaking and encourages litigation. We recommend either deleting this provision or amending it to preclude the establishment of continuous physical presence if the alien's departure is 15 days or longer, or where the alien has engaged in activities contrary to the immigration laws.

TRIENNIAL REPORTS CONCERNING IMMIGRATION

SECTION 401

Section 401 requires that the President submit to the House and Senate Judiciary Committees a triennial report on the Act. The comprehensive report must include the number of aliens admitted in various immigrant and nonimmigrant categories, and their impact on the economy, labor and housing markets, educational quality systems, social services, and population growth rate of the United States. The President must also provide a reasonable estimate of the number of aliens who entered the United States illegally, or who became deportable during the three-year period. The report must also project for the following five-year period the information contained in the report. The President must also include in the report any appropriate recommendation bearing on the admission and entry of aliens in the United States.

REPORTS ON UNAUTHORIZED EMPLOYMENT AND DISCRIMINATION

SECTION 402

Section 402 requires the President to report on the implementation of the employer-sanctions provisions to the House and Senate Judiciary Committees every six months beginning the twelfth month after enactment. This report must contain an analysis of the employment verification system and status of the telephone-verification project. The President must also report on the impact of the employer-sanctions provisions on the employment, wages and working conditions of United States workers, illegal immigration, and violation of status by nonimmigrant visa holders.

A separate report on the effect of the employer-sanctions provision on discrimination against minority group citizens and permanent residents and the paperwork and record-keeping burden of employers must be submitted. This report is due 18, 36 and 54 months following enactment.

The Civil Rights Commission must submit its own report, due 18 months after enactment, on the implementation and enforcement of this section. The Commission must additionally investigate allegations that there has been unlawful discrimination based on race or nationality against citizens or aliens authorized to work.

REPORTS ON H-2A PROGRAM AND ON AGRICULTURAL LABOR TRANSITION PROGRAM

SECTION 403

Section 403 requires the President to transmit to the House and Senate Judiciary Committees an annual report for three continuing years on the agricultural transition program, and a bi-annual report on the H-2A program, including the number of foreign workers employed under each program, compliance of employers with the terms and conditions of the program, and impact of the programs on the labor needs of the United States agricultural employers. The report must also include recommendations for modifications of the programs.

REPORT ON THE LEGALIZATION PROGRAM

SECTION 404

Section 404 requires the President to transmit to Congress two reports. The first report, required within 12 months after the end of the application period for temporary residence, is to include a significant amount of data relating to the legalized population, describing the geographical origins and manner of entry of these aliens, their demographic characteristics and a general profile of the population. The second report, due three years after the first report, is to contain information describing the impact of the program on State and local governments, public health and medical needs, patterns of employment and participation of legalized aliens in social service programs. The Department generally opposes the proliferation of statutorily mandated reporting requirements, preferring instead to provide the Congress with information requested on an as needed basis.

STATE AND LOCAL ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

Section 501

Section 501 contains an open ended allocation of such sums as are necessary for the Attorney General to reimburse State and local jurisdictions for incarceration and related costs of illegal aliens and others.

Comments

The Administration opposes reimbursement of state and local costs of imprisoning illegal aliens. However, we will work with state and local officials to assure the prompt removal of such aliens upon completion of their sentences.

Conclusion

Finally, in response to requests from members of your Committee, we have submitted amendments to H.R. 3080, and we will be submitting amendments to H.R. 3810. These amendments were prepared expressly at the request of members of Congress as a drafting service and they do not necessarily represent the position of this Department or this Administration.

The Department would like to reiterate its strong support for immigration reform. We know that we share a mutual interest in enacting legislation that will be most beneficial to the people of the United States.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

John R. Bolton
Assistant Attorney General