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Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Ronald K. Peterson



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

Subject: Senate Proposed Language on
frag sanctions for EAA Conference

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>CS</u>	<u>ORIGINATOR</u>	<u>90,10,10</u>
<u>Cuofc</u>	Referral Note:	<u>C 90,10,10</u>
<u>Cuat 14</u>	<u>OCT 10 90</u>	<u>CS</u>
	Referral Note: <u>SGR Memo to Peterson</u>	<u>C 90,10,10</u>
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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

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Withdrawal/Redaction Sheet (George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memorandum	Case Number 182214CU From Stephen G. Rademaker to Ronald K. Peterson re: Senate Proposed Language on Iraq Sanctions for EAA Conference (1 pp.)	10/10/90	p/5	

Collection:

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Date Closed: 8/19/2004	OA/ID Number: 00002-001
FOIA/SYS Case #: 1998-0099-F	Appeal Case #:
Re-review Case #: 2004-1908-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

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 the 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.

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- (b)(1) National security classified information [(b)(1) of the FOIA]
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- (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- (b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE

WASHINGTON

October 10, 1990

MEMORANDUM FOR RONALD K. PETERSON

FROM: STEPHEN G. RADEMAKER *SR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Senate Proposed Language on Iraq Sanctions for EAA
Conference

Pursuant to your request, Counsel's Office has reviewed the above-referenced matter. We see little of use to the Administration in the proposed Senate language, and much that would constrain the President's flexibility. Accordingly, we recommend that the Administration oppose the Senate language in its entirety.

We understand that it may be deemed important to attempt to improve the language rather than oppose it categorically. With this possibility in mind, we offer the following comments on especially troublesome provisions:

1. Section 322 -- Convert the "shalls" to "shoulds" in order to make clear that this provision is hortatory.
2. Section 323 -- Delete entirely and replace with language applauding the President's imposition of economic sanctions on Iraq and Kuwait. As written, it is unclear whether section 323(a) is intended to override IEEPA, and this could create problems in implementing the sanctions. Section 323(b) is probably unnecessary, though we would defer to Treasury on the question. Section 323(c) is objectionable on grounds that it entails unwarranted and offensive congressional micromangement of sanctions implementation.
3. Section 341(b) -- Delete as an unnecessary and possibly ineffective attempt by Congress to exercise statutory authority that has been conferred on the President. This section could be replaced with language expressing the sense of Congress that the President should continue exercising that authority.
4. Section 342 -- Delete as unnecessary. Further, because the relationship between these sanctions and the IEEPA sanctions imposed by the President on Iraq is unclear, this provision is likely to create problems in implementing the existing sanctions.
5. Section 343 -- This waiver provision contains objectionable report and wait provisions and therefore should be deleted. Further, it is unnecessary if section 342 is deleted.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

URGENT

October 9, 1990

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

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SUBJECT: Senate proposed language on Iraq Sanctions for EAA conference.

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.

A response to this request for your views is needed no later than

12:00 NOON, WEDNESDAY, OCTOBER 10, 1990.

Questions should be referred to ANNETTE ROONEY (395-7300), the legislative analyst in this Office.

RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

cc: C.B. Gray
L. Witt
J. Eisenhour

T. Palmieri
J. Nix
M. Mills

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THE WHITE HOUSE

WASHINGTON

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Comments:

[STAFF WORKING DRAFT--OCTOBER 5, 1990]
[Not for distribution]

1 TITLE III--SANCTIONS AGAINST IRAQ

2 SEC. 301. SHORT TITLE.

3 This title may be cited as the "Iraq International Law
4 Compliance Act of 1990".

5 Subtitle A--Response to Iraq's Invasion of Kuwait

6 SEC. 321. DECLARATIONS REGARDING THE IRAQI INVASION OF
7 KUWAIT.

8 The Congress--

9 (1) condemns Iraq's invasion of Kuwait on August 2,
10 1990;

11 (2) supports the actions that have been taken by the
12 President in response to that invasion;

13 (3) calls for the immediate and unconditional
14 withdrawal of Iraqi forces from Kuwait;

15 (4) supports the efforts of the United Nations
16 Security Council to end this violation of international
17 law and threat to international peace;

18 (5) supports the imposition and enforcement of
19 multilateral sanctions against Iraq;

20 (6) calls on United States allies and other countries
21 to support fully the efforts of the United Nations
22 Security Council, and to take other appropriate actions,

1 to bring about an end to Iraq's occupation of Kuwait; and
 2 ^{AND ITS} (17) condemns the brutal ~~Iraqi~~ occupation of Kuwait by Iraq
 3 ~~which is characterized by gross violations of~~
 4 internationally recognized human rights, including ^{IN KUWAIT}
 5 widespread arrests, torture, summary executions, and mass
 6 extrajudicial killings.

7 SEC. 322. CONSULTATIONS WITH CONGRESS.

8 The President shall keep the Congress fully informed, and
 9 shall consult with the Congress, with respect to current and
 10 anticipated events regarding the international crisis caused
 11 by Iraq's invasion of Kuwait, including with respect to
 12 United States actions.

13 SEC. 323. TRADE EMBARGO AGAINST IRAQ.

14 (a) CONTINUATION OF EMBARGO.--The President shall
 15 continue to impose the trade embargo and other economic
 16 sanctions with respect to Iraq and Kuwait that the United
 17 States imposed ^{IN RESPONSE TO IRAQ'S INVASION OF KUWAIT} pursuant to United Nations ~~Security Council~~
 18 ~~Resolution 661 (1990)~~. [Those sanctions may not be terminated ^{Proposed}
 19 so long as Iraq's military forces remain in Kuwait.] = HELMS
 Language.

20 [NOTE: Darryl's proposed language on withdrawal had not been
 21 received when this was prepared. Citation to UN resolution
 22 661 may be a problem if we would continue unilateral
 23 sanctions notwithstanding UN action lifting international
 24 sanctions. Also, under the National Emergencies Act, IEEPA
 25 sanctions must be renewed by the President annually--do we

1 supersede that requirement?]

2 (b) HUMANITARIAN ASSISTANCE.--To the extent that
3 transactions involving foodstuffs or payments for foodstuffs
4 are exempted "in humanitarian circumstances" from the
5 prohibitions established by the United States pursuant to
6 United Nations Security Council Resolution 661 (1990), those
7 exemptions shall be limited to foodstuffs that are to be
8 provided consistent with United Nations Security Council
9 Resolution 666 (1990) and other relevant Security Council
10 resolutions.

11 (c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND LIFTING OF
12 EMBARGO.--

13 (1) CONGRESSIONAL REVIEW OF REGULATIONS.--Any
14 regulations issued after the date of enactment of this
15 Act with respect to the economic sanctions imposed with
16 respect to Iraq and Kuwait by the United States under
17 Executive Orders Number 12724 and 12725 (August 9, 1990)
18 ~~(or otherwise pursuant to United Nations Security Council~~
19 ~~Resolution 661 (1990))~~ shall be submitted to the Congress
20 before those regulations take effect.

21 (2) NOTICE BEFORE TERMINATION OF SANCTIONS.--The
22 President shall notify the Congress before terminating,
23 in whole or in part, any sanction with respect to Iraq
24 and Kuwait referred to in subsection (a).

25 (d) RELATION TO OTHER SANCTIONS LEGISLATION.--The

1 sanctions that are described in subsection (a) are in
2 addition to, and not in lieu of the sanctions provided for in
3 subtitle B of this title, [title IV of this Act [CW
4 sanctions]] or any other provision of law.

5 **SEC. 324. ADDITIONAL IMPORT SANCTIONS.**

6 If the President considers that the taking of such action
7 would promote the effectiveness of the sanctions described in
8 section 323(a) and is consistent with the national interest,
9 the President may prohibit, for such period of time as he
10 considers appropriate, the importation into the United States
11 of any or all products of any foreign country that--

12 (1) is not prohibiting the importation of products of
13 Iraq into its customs territory; or

14 (2) has not given assurances satisfactory to the
15 President that such an import sanction will be promptly
16 implemented.

17 **SEC. 325. PENALTIES FOR VIOLATIONS OF EMBARGO.**

18 *Notwithstanding section 206 of the International*
19 *Emergency Economic Powers Act (50 U.S.C. 1705) and section*
20 *5(b) of the United Nations Participation Act of 1945 (22*
21 *U.S.C. 287c(b))--*

22 (1) a civil penalty of not to exceed \$250,000 may be
23 imposed on any person who, after the date of enactment of
24 this Act, violates Executive Order Number 12724 or 12725
25 or any license, order, or regulation issued under either

1 such Executive Order; and

2 (2) whoever, after the date of enactment of this Act,
3 willfully violates Executive Order Number 12724 or 12725
4 or any license, order, or regulation issued under either
5 such Executive Order--

6 (A) shall, upon conviction, be fined not more
7 than \$1,000,000, if a person other than a natural
8 person; or

9 (B) if a natural person, shall, upon conviction,
10 be fined not more than \$1,000,000, be imprisoned for
11 not more than 10 year, or both.

12 Any officer, director, or agent of any corporation who
13 knowingly participates in a violation described in paragraph
14 (2) may be punished by imposition of the fine or imprisonment
15 (or both) specified in subparagraph (B) of that paragraph.

16 [Need to consider "attempts", "evasions", and
17 "forfeiture" elements of 1945 UN Act penalties.]

18 Subtitle B--Response to Iraq's Long-Standing Violations of
19 International Law

20 SEC. 341. DECLARATIONS REGARDING IRAQ'S LONG-STANDING
21 VIOLATIONS OF INTERNATIONAL LAW.

22 (a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW.--The Congress
23 finds and determines [redacted] that--

24 (1) the Government of Iraq has demonstrated repeated
25 and blatant disregard for its obligations under



1 international law by violating the Charter of the United
2 Nations (signed at San Francisco, June 26, 1945), the
3 Protocol for the Prohibition of the Use in War of
4 Asphyxiating, Poisonous or Other Gases, and of
5 Bacteriological Methods of Warfare (done at Geneva, June
6 17, 1925), as well as other international treaties;

7 (2) the Government of Iraq is a party to the
8 International Covenant on Civil and Political Rights
9 (adopted by the General Assembly of the United Nations
10 ~~and opened for signature, ratification, and accession in~~
11 New York, December 16, 1966) and the International
12 Covenant on Economic, Social, and Cultural Rights
13 (adopted by the General Assembly of the United Nations
14 ~~and opened for signature, ratification, and accession in~~
15 New York, December 16, 1966) and is obligated under the
16 Covenants, as well as the Universal Declaration of Human
17 Rights (adopted by the General Assembly of the United
18 Nations, December 10, 1948), to respect internationally
19 recognized human rights;

20 (3) the State Department's Country Reports on Human
21 Rights Practices for 1989 again characterizes Iraq's
22 human rights record as "abysmal";

23 (4) Amnesty International, Middle East Watch, and
24 other independent human rights organizations have
25 documented extensive, systematic, and continuing human

1 rights abuses by the Government of Iraq, including
2 summary executions, mass political killings,
3 disappearances, widespread use of torture, arbitrary
4 arrests and prolonged detention without trial of
5 thousands of political opponents, forced relocation and
6 deportation, denial of nearly all civil and political
7 rights such as freedom of association, assembly, speech,
8 and the press, and the imprisonment, torture, and
9 execution of children;

10 (5) since 1987, the Government of Iraq has
11 intensified its severe repression of the Kurdish minority
12 of Iraq, deliberately destroyed more than 3,000 villages
13 and towns in the Kurdish regions, ~~and forcibly expelled~~
14 more than 500,000 people, thus effectively depopulating
15 the rural areas of Iraqi Kurdistan;

16 (6) Iraq has blatantly violated international law by
17 initiating use of chemical weapons in the Iran-Iraq war
18 and by using chemical weapons against its own Kurdish
19 citizens, resulting in tens of thousands of deaths and
20 more than 65,000 refugees;

21 (7) Iraq continues to expand its chemical weapons
22 capability, and President Saddam Hussein has threatened
23 to use chemical weapons against other nations;

24 (8) persuasive evidence exists that Iraq is
25 developing biological weapons in violation of

1 international law;

2 (9) there are strong indications that Iraq has taken
3 steps to produce nuclear weapons and has attempted to
4 smuggle from the United States, in violation of United
5 States law, components for triggering devices used in
6 nuclear warheads whose manufacture would contravene the
7 Treaty on the Non-Proliferation of Nuclear Weapons (to
8 which Iraq is a party);

9 (10) Iraq has developed ballistic missile systems
10 with a range of greater than 300 kilometers, which could
11 be used to deliver chemical, biological, or nuclear
12 weapons in violation of international law, and

13 (11) Iraqi President Saddam Hussein, in violation of
14 international law, has threatened to use terrorism
15 against other nations and has increased Iraq's support
16 for Palestinian groups, including the Palestine
17 Liberation Organization, that have conducted terrorist
18 acts.

19 (b) HUMAN RIGHTS VIOLATIONS.--The Congress determines
20 that the Government of Iraq is engaged in a consistent
21 pattern of gross violations of internationally recognized
22 human rights and that all provisions of law that impose
23 sanctions against a country whose government is engaged in a
24 consistent pattern of gross violations of internationally
25 recognized human rights shall be fully enforced against Iraq.

1 (c) MULTILATERAL COOPERATION.--The Congress calls on the
2 President to seek multilateral cooperation--

3 (1) to deny dangerous technologies to Iraq;

4 (2) to induce Iraq to respect internationally
5 recognized human rights; and

6 (3) to induce Iraq to allow appropriate international
7 humanitarian and human rights organizations to have
8 access to Iraq and Kuwait, including the areas in
9 northern Iraq traditionally inhabited by Kurds.

10 SEC. 342. SANCTIONS AGAINST IRAQ.

11 (a) IMPOSITION.--Except as provided in section 343, the
12 following sanctions shall apply with respect to Iraq:

13 (1) FMS SALES.--The United States Government may not
14 enter into any sale with Iraq under the Arms Export
15 Control Act.

16 (2) COMMERCIAL ARMS SALES.--Licenses may not be
17 issued for the export to Iraq of any item on the United
18 States Munitions List.

19 (3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY.--The
20 authorities of section 6 of the Export Administration Act
21 of 1979 (50 U.S.C. App. 2405) shall be used to prohibit
22 the export to Iraq of any goods or technology on the
23 control list established pursuant to subsection (c) of
24 that section or on the control list established pursuant
25 to section 5(c)(1) of that Act (50 U.S.C. App.

1 2404(c)(1)).

2 (4) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.--

3 (A) NRC LICENSES.--The Nuclear Regulatory
4 Commission may not issue any license or other
5 authorization under the Atomic Energy Act of 1954 (42
6 U.S.C. 2011 and following) for the export to Iraq of
7 any source or special nuclear material, any
8 production or utilization facility, any sensitive
9 nuclear technology, any component, item, or substance
10 determined to have significance for nuclear explosive
11 purposes pursuant to section 109b. of the Atomic
12 Energy Act of 1954 (42 U.S.C. 2139(b)), or any other
13 material or technology requiring such a license or
14 authorization.

15 (B) DISTRIBUTION OF NUCLEAR MATERIALS.--The
16 authority of the Atomic Energy Act of 1954 may not be
17 used to distribute any special nuclear material,
18 source material, or byproduct material to Iraq.

19 (C) DOE AUTHORIZATIONS.--The Secretary of Energy
20 may not provide a specific authorization under
21 section 57b. (2) of the Atomic Energy Act of 1954 (42
22 U.S.C. 2077(b)(2)) for any activity that would
23 constitute directly or indirectly engaging in Iraq in
24 activities that require a specific authorization
25 under that section.

1 (D) EXPORT LICENSES.--The Secretary of Commerce
2 may not issue any license under the Export
3 Administration Act of 1979 for the export directly or
4 indirectly to Iraq of any goods or technology--

5 (i) that are intended for a nuclear related
6 and use or end user;

7 (ii) that have been identified on the
8 Commodity Control List pursuant to section 309(c)
9 of the Nuclear Non-Proliferation Act of 1978 (42
10 U.S.C. 2139a) as items that could, if used for
11 purposes other than those for which the export is
12 intended, be of significance for nuclear
13 explosive purposes; or

14 (iii) that are otherwise subject to the
15 procedures established pursuant to section 309(c)
16 of Nuclear Non-Proliferation Act of 1978 (42
17 U.S.C. 2139a).

18 [Note: This subparagraph (D) is probably unnecessary if the
19 sec. 6(1) control list is included in paragraph (3) above.]

20 (5) ASSISTANCE FROM INTERNATIONAL FINANCIAL
21 INSTITUTIONS.--The United States shall oppose any loan or
22 financial or technical assistance to Iraq by
23 international financial institutions in accordance with
24 section 701 of the International Financial Institutions
25 Act (22 U.S.C. 262d).

1 (6) ASSISTANCE THROUGH THE EXPORT-IMPORT
2 BANK.--Credits and credit guarantees through the
3 Export-Import Bank of the United States shall be denied
4 to Iraq.

5 (7) ASSISTANCE THROUGH THE COMMODITY CREDIT
6 CORPORATION.--Credit, credit guarantees, and other
7 assistance through the Commodity Credit Corporation shall
8 be denied to Iraq.

9 (8) FOREIGN ASSISTANCE.--All forms of assistance
10 under the Foreign Assistance Act of 1961 (22 U.S.C. 2151
11 and following) other than emergency assistance for
12 medical supplies and other forms of emergency
13 humanitarian assistance, and under the Arms Export
14 Control Act (22 U.S.C. 2751 and following) shall be
15 denied to Iraq.

16 (b) CONTRACT SANCTITY.--For purposes of the export
17 controls imposed pursuant to subsections (a)(3) and
18 (a)(4)(D), the date described in section 6(m)(1) of the
19 Export Administration Act of 1979 (50 U.S.C. App. 2405(m)(1))
20 shall be deemed to be August 1, 1990.

21 SEC. 343. WAIVER AUTHORITY.

22 (a) IN GENERAL.--The President may waive the requirements
23 of any paragraph of section 342(a) if the President makes a
24 certification under subsection (b) or subsection (c).

25 (b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI

1 POLICIES AND ACTIONS.--The authority of subsection (a) may be
2 exercised 60 days after the President certifies to the
3 Congress that--

4 (1) the Government of Iraq--

5 (A) has demonstrated, through a pattern of
6 conduct, substantial improvement in its respect for
7 internationally recognized human rights;

8 (B) is not acquiring, developing, or
9 manufacturing chemical, biological, or nuclear
10 weapons or delivery systems or components for such
11 weapons, and has forsworn the first use of such
12 weapons; and

13 (C) does not provide support for international
14 terrorism;

15 (2) the Government of Iraq is in substantial
16 compliance with its obligations under international law,
17 including--

18 (A) the Charter of the United Nations (signed at
19 San Francisco, June 26, 1945);

20 (B) the International Covenant on Civil and
21 Political Rights (adopted by the General Assembly of
22 the United Nations ~~and opened for signature,~~
23 ~~ratification, and accession~~ in New York, December 16,
24 1966) and the International Covenant on Economic,
25 Social, and Cultural Rights (adopted by the General

1 Assembly of the United Nations and opened for
2 signature, ratification, and accession in New York,
3 December 16, 1966);

4 (C) the Convention on the Prevention and
5 Punishment of the Crime of Genocide (done at Paris,
6 December 9, 1948);

7 (D) the Protocol for the Prohibition of the Use
8 in War of Asphyxiating, Poisonous or Other Gases, and
9 of Bacteriological Methods of Warfare (done at
10 Geneva, June 17, 1925);

11 (E) the Treaty on the Non-Proliferation of
12 Nuclear Weapons (done at Washington, London, and
13 Moscow, July 1, 1968); and -- -- --

14 (F) the Convention on the Prohibition of the
15 Development, Production and Stockpiling of
16 Bacteriological (Biological) and Toxin Weapons and on
17 Their Destruction (done at Washington, London, and
18 Moscow, April 10, 1972); and

19 (3) the President has determined that it is essential
20 to the national interests of the United States to
21 exercise the authority of subsection (a).

22 (c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI
23 LEADERSHIP AND POLICIES.--The authority of subsection (a) may
24 be exercised 30 days after the President certifies to the
25 Congress that--

1 (1) there has been a fundamental change in the
2 leadership of the Government of Iraq;

3 (2) the behavior of the new Government of Iraq has
4 been consistent with the standards of conduct specified
5 in paragraphs (1) and (2) of subsection (b); and

6 (3) the new Government of Iraq has provided reliable
7 and credible assurances that its policies and actions ~~will~~
8 ~~will consistently~~ be consistent with the standards of
9 conduct specified in those paragraphs.

10 (d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS.--Any
11 certification under subsection (b) or (c) shall include the
12 justification for the President's determination with respect
13 to each subparagraph of paragraph (1) and (2) of subsection
14 (b) and, in the case of a certification under subsection (b),
15 the justification for the President's determination under
16 paragraph (3) of that subsection. The certification shall
17 also specify which paragraphs of section 342(a) the President
18 will waive pursuant to that certification.