Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To Samuel Berger thru James Baker from Charles Allen. Subject: Legislative alternatives to proposals on behalf of Flatow and Brothers to the rescue plaintiffs (4 pages)	09/28/1999	P5
002. letter	To President Clinton from Sean Maloney and David Goodfriend. Subject: Kyl / Mack / Lautenberg amendment (1 page)	08/02/1999	P5
003. memo	To President Clinton from Samuel Berger et al. Subject: Flatow litigation and related amendments appearing in legislation (Annotations) (4 pages)	08/02/1999	P5
004. draft	re: Payment of certain antiterrorism judgements (2 pages)	n.d.	P5
005. statement	re: Explanation of proposal (6 pages)	n.d.	P5
006. talking points	re: Alejandre et al v. Republic of Cuba (Partial) (1 page)	09/22/1999	P5

COLLECTION:

Clinton Presidential Records
Counsel's Office

OA/Box Number: 20839

FOLDER TITLE:

Brothers to the Rescue: BTTR [Brothers to the Rescue] [Folder 1]

2009-0342-F
jm671

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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After being allowed to intervene for the purposes of appeal, we, along with other affected parties, appealed. On August 11, 1999, Judge King's decision was overturned by the Eleventh Circuit. The appellate court ruled only on the second ground, holding that ETECSA was a separate juridical entity from the government of Cuba and hence not subject to garnishment for the Cuban government's debts. The Eleventh Circuit's opinion, however, leaves open the question of whether assets held in the name of other Cuban entities, in particular, ETECSA's predecessor, the nationalized telecommunications company known as EMTELCUBA (now, RADIOCUBA), may properly be garnished to satisfy a judgment against the government of Cuba. It also leaves open the question of more interest to the United States, whether the President's waiver of Section 117 is valid. Accordingly, in the district court, plaintiffs continue to pursue garnishment of the blocked bank accounts holding Cuban assets, including assets of EMTELCUBA, and also are asserting the right to take additional discovery on ETECSA's relationship with the Cuban government and with EMTELCUBA.

Although plaintiffs have not yet acted to attach or garnish any other assets, the possibility exists that they may attempt to do so, and the Justice Department has sought to be prepared to forestall any such attempts. Of current interest, a risk exists that plaintiffs may attempt to attach the airplane that will be used to transport Cuba's foreign minister, currently visiting the United Nations, back to Cuba next week. Although we suspect that plaintiffs are aware of the visit and have chosen not to act (since they did not act when the plane delivered the foreign minister to this country), we suggest that this possibility not be mentioned to them.

Questions and Answers

Q: What interests is the United States seeking to protect by participating in these cases?

In exercising his authority to waive Section 117, the President identified significant national security interests that would be affected by allowing attachment or garnishment of blocked assets. These include: (1) impairment of our ability to use sanctions programs that involve the blocking of assets of terrorist-list states for leverage to protect national security; (2) as applied to foreign diplomatic property (not directly involved in this case but involved, e.g., in the Flatow case against Iran), contravention of international legal obligations upon which we rely to protect diplomatic personnel and other U.S. citizens abroad; and (3) preclusion of the use of blocked assets as part of an equitable program for settlement of all U.S. claims against a given terrorist-list state. For example, there are currently over $6 billion in claims by U.S. nationals against Cuba, including some for wrongful death, which were adjudicated in the early 1970s by the Foreign Claims Settlement Commission.

In addition, allowing garnishment of the debts owed ETECSA would interfere with the ability of the United States to carry out important foreign policy goals enshrined in the Cuban Democracy Act of 1992. This Act authorizes direct telecommunications services between the United States and Cuba and permits the special licensing of payments due to Cuba or Cuban entities of amounts due "as a result of the provision of telecommunications services." Direct telecommunications service fosters contacts between residents of the United States and the people of Cuba, and is a critical element of our policy of supporting the Cuban people and fostering a

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft	Partial memorandum for the President. Factual and Legal Background. (6 pages)	02/1996	P1/b(1)
002. draft	Memorandum for the President (part of Record ID: 9601232). (2 pages)	02/1996	P1/b(1)
003. draft	Partial memorandum for the President. (4 pages)	02/1996	P1/b(1)
004. fax	re: Legislation concerning sanctions (1 page)	01/30/1996	P5
005. fax	re: Top Ten reasons to say No to "The Menendez Compromise" (2 pages)	02/16/1996	P5
006. draft	Incomplete and annotated. Duplicate of 001. (1 page)	02/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Democracy / Human Rights (Robert Malley)
OA/Box Number: 984

FOLDER TITLE:

Cuba Shootdown [6]

2009-0342-F
vz1093

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
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Top Ten Reasons To Say No to "The Menendez Compromise"

1 This is a lose-lose situation for the President. He would get all the foreign policy difficulties of the bill's provisions, and none of the domestic political credit. Cuban American voters would know the President was signing the bill reluctantly. Bob Dole and Jesse Helms would get the credit.

2 Essentially, the compromise is a trap. If the President signs the bill and waives the Title III lawsuit provisions, hard-line Cuban-American legislators and activists, including Rep. Menendez and other Cuban American Democrats, will harshly criticize him. Their constituencies will demand it. In fact, waiving the lawsuits once the bill is enacted could expose the President to legal action by those deprived of the right to pursue Title III lawsuits.

3 If the President signs the bill and does not waive Title III provisions, the ensuing flurry of lawsuits will end extremely valuable cooperation with European allies on Cuba, tie up U.S. courts, and damage prospects for settling claims and reviving Cuba's post-transition economy.

4 If the President declines the compromise, there is a good chance that the bill will stall in the Senate without the President ever having to act on it, or that the sponsors will be forced to make additional changes that will address more of the Administration's concerns. The compromise would not have been offered unless the sponsors had less than 60 votes in the Senate for cloture.

5 Even without Title III, the bill would still kill the President's extremely popular and promising "Support for the Cuban People" initiatives. Because the bill would stipulate that such activities could not result in any accumulation of funds by the Cuban Government, we would be unable to license most NGO proposals.

6 If the President signs the bill, particularly if does not waive Title III, Castro may well abrogate the migration accords and unleash another wave of rafters at Florida. There would be little left to do then except take in all the rafters (politically unpopular), reopen the Guantanamo refugee camp (which the Pentagon would oppose) or blockade the island (which the Pentagon, and the rest of the world, would oppose.)

7 If the bill is defeated in the Senate or is vetoed by the President, the U.S. is likely to receive increased support from our allies in pressing the Cuban Government for concrete progress on reform. European and Latin Government's respect for the President would grow.

8 The national and local Florida news media would characterize acceptance of the current Helms-Burton bill as "kow-towing" to the special interests of the hard-line Cuban American community. Conversely, the media would likely describe defeat or veto of the bill as serious and tough-minded foreign policy-making.

9 The likelihood of a major foreign policy breakthrough on Cuba in the President's second term would be greatly enhanced by the defeat of Helms-Burton. If the bill becomes law, it is likely to delay, rather than hasten, a transition to democracy in Cuba. Castro will find a way to work around it, and will use the bill to bolster support for the regime both inside and outside Cuba.

10 The Secretary of State has on two occasions publicly described the serious flaws in the bill, which are not limited to Title III. If the President now agrees to sign the compromise bill, the Administration's credibility on foreign policy issues will suffer.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	re: Objectives for Final Negotiations on Helms-Burton (1 page)	n.d.	P5
002. list	re: Objectives for Final Negotiations on Helms-Burton (1 page)	n.d.	P5
003. list	re: Objectives for Final Negotiations on Helms-Burton (1 page)	n.d.	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Democracy / Human Rights (Robert Malley)
OA/Box Number: 984

FOLDER TITLE:

Cuba Shootdown [9]

2009-0342-F
jm1082

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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Objectives for Final Negotiations on Helms-Burton

- Change the name of the bill to include names of Brothers to the Rescue Victims (Mario de la Pena, Armando Alejandre, Carlos Costa and Carlos Morales).

- Substitute new language for Title III lawsuits based on the D'Amato model, with trafficking as currently defined as the trigger for a menu of Presidential options for sanctions. (L to supply substitute language)

  -- As a fallback, seek a better waiver provision for Title III lawsuits that would provide some protection against "takings" claims. Also seek a twelve month waiting period after enactment before lawsuits could be filed.

- Use Senate language on Title II establishing requirements and factors to be considering in determining when a transition and democratic government are in power.

- Delete Title II language which would limit the President's ability to lift sanctions on family remittances and travel transactions when he believes appropriate.

- Modify slightly Senate language that would permit the U.S. to support IFI loans to a transition government in Cuba. Language should allow U.S. support for Cuban IFI membership at that time to ensure that such loans could be made.

- Improve language authorizing the use of civil penalties to punish embargo violators so that such penalties may be applied expeditiously. (Sponsors will have no problem with this.)

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Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. talking points	re: Cuba Talking Points for S with Sens. Dodd, Coverdell (1 page)	n.d.	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Democracy / Human Rights (Robert Malley)
OA/Box Number: 984

FOLDER TITLE:

Cuba Shootdown [10]

2009-0342-F
jm1083

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
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Cuba Talking Points for S with Sens. Dodd, Coverdell

- I understand that the conference committee on the Helms-Burton legislation may convene in the near future. We still have serious concerns about this bill.

- The bill would throw an enormous wrench into the works at a time when our policy is beginning to bear fruit.

- Castro is coming under increasing pressure from the Europeans to institute fundamental democratic reforms. Our moderate policy stance has enabled the EU to cooperate closely with us on this.

- Meanwhile, U.S. NGOs are beginning to take advantage of the President's "Support for Cuban People" measures. They are establishing contacts and programs that will strengthen the growing number of independent groups on the island.

- Helms-Burton would seriously damage our cooperation with the European Union. They have serious, well-founded problems with this bill.

- Language in the bill would also greatly reduce our ability to reach out to independent groups there.

- Congressman Menendez has proposed a compromise on the bill that would allow the President to waive Title III lawsuits and Title IV visa exclusions. Such political gyrations would benefit no one, and would not fix other problems with the bill. The legislation would still lock in rigid requirements which would limit our ability to react quickly to changes on the island. It would still interfere with our outreach to independent groups and with our cooperation with European allies.

- Fundamentally, we don't think squeezing foreign investment will bring about Castro's overthrow. He will ride out Helms-Burton and use it to strengthen his political support at home and abroad.

- Passage of Helms-Burton might also prompt Castro to abrogate the migration accords with us that have stemmed the flow of Cuban rafters.

- Our best hope for promoting peaceful change is to license private support for independent groups on the island and increase international pressure for reform.

- Additional changes need to be made to this bill or we will continue to oppose it.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Charles Allen to Samuel Berger re: Decision in the "Brothers to the Rescue" Case (1 page)	04/07/1999	P5
001b. memo	Charles Ruff and Samuel Berger to President Clinton re: Decision in the "Brothers to the Rescue" Case (4 pages)	n.d.	P5
001c. memo	For the President from Samuel Berger. Re: Phone Links. Record ID: 9901430. (2 pages)	03/08/1999	P1/b(1)
001d. summary	Situation Room summary re: Cuba (1 page)	02/25/1999	P5
001e. memo	Samuel Berger and Larry Stein to President Clinton re: Waiver of Requirements Relating to Blocked Property of Terror-List States (2 pages)	10/21/1998	P5
001f. memo	President Clinton to Secretary of State and Secretary of Treasury re: Determination to Waiver Requirements Relating to Blocked Property of Terrorist-List States (1 page)	10/21/1998	P5
001g. memo	re: Justification for Waiver (1 page)	n.d.	P5
001h. memo	Thomas Pickering to President Clinton re: Waiver of Requirements Relating to Blocked and Regulated Property of Terrorist-List States (2 pages)	10/17/1998	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Caryn Hollis)
OA/Box Number: 2928

FOLDER TITLE:

Cuba BTTR [Brothers to the Rescue] Legal Lautenberg [5]

2009-0342-F
vz1095

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
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2584

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

April 7, 1999

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: JAMES E. BAKER JB

FROM: CHARLES A. ALLEN CA

SUBJECT: Decision in the "Brothers to the Rescue" Case

Here is the memo on the BTTR litigation case you indicated the President wanted. Chuck Ruff concurs in the attached draft.

RECOMMENDATION

That you sign the memorandum at Tab I.

Attachments
Tab I Memorandum for the President
Tab A Memorandum to the President of March 15, 1999
Tab B PD 99-1 (Waiver of section 117)

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THE WHITE HOUSE

WASHINGTON

SITUATION ROOM MORNING SUMMARY

February 25, 1999

WESTERN HEMISPHERE

CUBA: Cuba cut off most telephone links with U.S....retaliating for American communication firms' delayed payments to Havana. (U) Reuters a0110

TAB B

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Sean Maloney and David Goodfriend to President Clinton re: Kyl / Mack / Lautenberg ammendment (1 page)	07/17/1999	P5
001b. memo	Samuel Berger, Jacob Lew, Charles Ruff, and Larry Stein to President Clinton re: Flatow Litigation and Related Ammendments Appearing in Legislation (4 pages)	07/15/1999	P5
001c. attachment	re: Status of Flatow Litigation and Assistance to Mr. Flatow (2 pages)	n.d.	P5
002a. note	Chuck to Mara re: Draft statement (2 pages)	05/05/2000	P5
002b. draft	re: Treasury Department statement on Justice for Victims of Terrorism Act (Annotations) (31 pages)	05/02/2000	P5
003. talking points	re: Mack / Lautenberg June 16, 2000 Letter (5 pages)	n.d.	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Office of the National Security Advisor (Mara Rudman)
OA/Box Number: 3934

FOLDER TITLE:

Legal Issues: Judgement Fund: Flatow & BTTR [Brothers to the Resuce] [3]

2009-0342-F
jm1088

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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TAB A

DRAFT

Mr. Chairman and Members of the Committee:

We are submitting this joint testimony as envisaged by the letters of Deputy Secretary Eizenstat of April 12 to Committee Chairman Hyde and Subcommittee Chairman Smith in response to letters to Secretary Summers and Secretary Albright from Chairman Hyde, inviting them or their designees to testify before this subcommittee on April 13 concerning H.R. 3485, the "Justice for Victims of Terrorism Act." Deputy Secretary Eizenstat has worked extensively on this issue for the Administration over the past 18 months, and we, on behalf of our Departments, join him in presenting our views on this proposed legislation. We share your goal

DRAFT

that U.S. victims of terrorism and their families receive justice and compensation for their suffering. We also appreciate the opportunity to submit this statement into the record.

Let us begin by expressing the Administration's and our own personal sympathy to victims of international terrorism -- an evil that this administration has taken world leadership in combating. It is the responsibility of the United States Government to do everything possible to protect American lives from international terrorism. People like Mr. Flatow, Mr. Anderson, the other hostages held in Lebanon and their families, and the families of the Brothers to the Rescue pilots deserve government support in their demand to be compensated for their grievous losses and unimaginable experiences. Those of us who have met with them have been touched by their suffering and impressed with their strength and determination to seek justice. We understand their frustrations and the frustrations that have led the sponsors of this legislation to introduce it. We are dedicated to working with the Congress to achieve the goal of obtaining compensation for the victims and their families. But we feel strongly that this must be done in a way that is consistent with the national interests of the United States.

It should come as no surprise that the states involved here -- states that we have publicly branded as sponsors of terrorism -- do not view the United States as a cordial environment to conduct financial transactions. As part of our efforts to combat terrorism, we impose a wide range of economic sanctions against state sponsors of terrorism in order to deprive them of the resources to fund acts of terrorism and to affect their conduct. Because of these measures, terrorism-list states engage in minimal economic activity in the United States. In many cases, the only assets that states which sponsor terrorism have in the United States are either blocked or diplomatic property. Such property is not legally available for attachment and execution of judgments, for very good reasons involving the interests of the entire nation, which are described in detail below.

As much as we join the sponsors of this bill in desiring to have victims of international terrorism compensated, it would be unwise in the extreme to ignore these reasons and forgo the interests of all our citizens for this purpose. This question is complex and fraught with difficulties. For this reason, last year, we proposed, among other things, that a commission be established to review all aspects of the problems presented by acts of international terrorism, and specifically study the issue of compensation and recommend proposals to the President and to the Congress to help the victims and their families receive compensation in a manner that would not impinge upon important U.S. national interests. Though this proposal received little support, we believe it still has merit. Especially when combined with a short-term approach that would pay the full amount of compensatory damage awards to those with judgments against the Government of Iran and the Government of Cuba, using appropriated funds in the case of Iran and blocked funds that appear to be titled in the name of the Government of Cuba in the case of Cuba.

not rental proceeds?

H.R. 3485, though born of good intentions, is fundamentally flawed. The legislation would have five principal effects, all of which would be seriously damaging to important U.S. interests and which would, at the end of the day, result in substantial U.S. taxpayer liability.

<u>First</u>, blocking of assets of terrorist states is one of the most significant economic sanctions tools available to the President. The proposed legislation would undermine

the President's ability to combat international terrorism and other threats to national security by permitting the wholesale attachment of blocked property, thereby depriving the U.S. of a source of leverage in ongoing and future sanctions programs, such as was used to gain the release of our citizens held hostage in Iran.

<u>Second</u>, it could cause the U.S. to violate our obligations to protect diplomatic and consular property of other nations, and would put our own diplomatic and consular property around the world at risk.

<u>Third</u>, it would create a race to the courthouse benefiting one small group of Americans over a far larger group of Americans, many of whom have waited decades to be compensated by Cuba and Iran for both the loss of property and the loss of the lives of their loved ones, and would leave no assets for their claims and others that may follow.

Why doesn't this still apply if soln Cuba & make us similarly obligated under agmts for other (Iranians)?

<u>Fourth</u>, it would breach the long-standing principle that the United States Government has sovereign immunity from attachment, thereby preventing the U.S. Government from making good on its debts and international obligations and potentially causing the U.S. taxpayer to incur substantial financial liability. In particular, such a waiver of sovereign immunity would expose the Foreign Military Sales

("FMS") Trust Fund to writs of attachment, which would inject a major element of uncertainty and unreliability into the FMS program by creating an exception to the processes and principles under which the program operates.

Fifth, it would direct courts to ignore the separate legal status of states and their agencies and instrumentalities, overturning Supreme Court precedent and basic principles of corporate and international law by making state-owned corporations liable for the debts of the state.

As The Washington Post observed in an editorial, "Victims of terrorism certainly should be compensated, but a mechanism that permits individual recovery to take precedence over significant foreign policy interests is flawed." The proposed legislation would indeed seriously compromise important national security, foreign policy, and other clear national interests, and discriminate among and between past and future U.S. claimants. Moreover, in the Iranian context, it would not achieve the stated goal of forcing Iran to bear the burden of paying compensatory and punitive damage awards to U.S. victims and their families. Under long established principles of international law and the Algiers Accords, the U.S. taxpayer would have to pay these claims. For these reasons, explained in more detail below, the Administration strongly opposes the proposed legislation.

Attachment of Blocked and Diplomatic Property

The Administration has grave concerns with the provisions of the proposed legislation that seek to nullify the President's waiver of last year's Foreign Sovereign Immunities Act ("FSIA") amendments and thereby permit attachment of blocked and diplomatic property.

Let us be entirely clear: wholesale attachment of blocked or diplomatic property would compromise our national security and would seriously prejudice a number of important national interests. These interests include: our interest in the effective functioning and preservation of our asset blocking programs to combat threats to our national security and to the safety of American citizens abroad; our legal obligation to protect the diplomatic property of foreign states, regardless of the status of our relations with those states, and our clear national interest in upholding the international legal regime that protects U.S. diplomatic property and personnel abroad; and our interest in avoiding laws that would create gross inequities in the amounts of compensation received by similarly-situated U.S. nationals with claims against foreign governments. Each of these concerns is addressed in turn below.

<u>Elimination of the Effectiveness of Our Blocking Programs</u>

The ability to block assets represents one of the primary tools available to the United States to deter aggression and discourage or end hostile actions against U.S. citizens abroad. Our efforts to combat threats to our national security posed by terrorism-list countries such as Iraq, Libya, Cuba, and Sudan rely in significant part upon our ability to block the assets of those countries.

Blocking assets permits the United States to deprive such countries of resources that they could use to harm our interests, and to disrupt their ability to carry out international financial transactions. By placing the assets of such countries in the sole control of the President, blocking programs permit the President at any time to withhold substantial benefits from countries whose conduct we abhor, and to offer a potential incentive to such countries to reform their conduct. Our blocking programs thus provide the United States with a unique and flexible form of leverage over countries that engage in threatening conduct.

The Congress has recognized the need for the President to be able to regulate the assets of foreign states to meet threats to the U.S. national security, foreign policy, and economy. In both the International Emergency Economic Powers Act and the Trading with the Enemy Act, the Congress has provided the President with statutory authority for regulating foreign assets. On the basis of this authority and foreign policy powers under the Constitution, Presidents have blocked property and interests in property of foreign states and foreign nationals that today amounts to over $3.5 billion. Of this amount, approximately $176 million is blocked property in which Cuban entities have an interest. Of this $176 million, approximately $54.0 million appear to be probable Government of Cuba blocked funds. The approximately $23.3 million of Government of Iran property which remains blocked from the Hostage Crisis of 1979-81 consists entirely of blocked diplomatic real estate and related accounts.

The Supreme Court has also recognized the importance of the President's blocking authority, stating that such blocking orders "permit the President to maintain the foreign assets at his disposal for use in negotiating the resolution of a declared national emergency. The frozen assets serve as a 'bargaining chip' to be used by the President when dealing with a hostile country," Dames & Moore v. Regan, 453 U.S. 654, 673 (1981).

The leverage provided by blocked assets has proved central to our ability to protect important U.S. national security and foreign policy interests. The most striking example is the Iran Hostage Crisis. The critical bargaining chip the United States had to bring to the table in an effort to resolve the crisis was the almost $10 billion in Iranian Government assets that the President had blocked shortly after the taking of our embassy. Because the return of the blocked assets was one of Iran's principal conditions for the release of the hostages, we would not have been able to secure the safe release of the hostages and to settle thousands of claims of U.S. nationals if those blocked assets had not been available. This settlement with Iran also resulted in the eventual payment of $7.5 billion in claims to or for the benefit of U.S. nationals against Iran.

In the case of Vietnam, the leverage provided by approximately $350 million in blocked assets, combined with Vietnam's inability to gain access to U.S. technology and trade, played an important role in persuading Vietnam's leadership to address important U.S. concerns in the normalization process. These concerns included full accounting of POWs and MIAs from the Vietnam War, accepting responsibility for over $200 million in U.S. claims which had been adjudicated by the Foreign Claims Settlement Commission, and moderating Vietnamese actions in Cambodia.

In addition, blocked assets have helped us to secure equitable settlements of claims of U.S. nationals against such countries as Romania, Bulgaria, and Cambodia in the context of normalization of relations. These results could not have been achieved without effective blocking programs.

However, our blocking programs simply cannot function, and cannot serve to protect these important interests, if blocked assets are subject to wholesale attachment and execution by private parties, as the proposed legislation would permit. The ability to use blocked assets as leverage against foreign states that threaten U.S. interests is essentially eliminated if the President is unable to preserve and control the disposition of such assets. Private rights of execution against blocked assets would permanently rob the President of the leverage blocking provides by depleting the pool of blocked assets.

In the Cuban and Iranian contexts, for example, the value of judgments (compensatory and punitive) won by the Brothers to the Rescue families exceeds the total known value of the blocked assets of Cuba in the United States, and the value of the judgment won by the Flatow family, or the former Beirut Hostages, exceeds the total known value of the blocked assets of the Government of Iran in the United States. Attachment of blocked assets to satisfy private judgments in these and similar cases would leave no remaining assets of terrorism-list governments in the President's control, denying the President an important source of leverage and seriously weakening his hand in dealing with threats to our national security.

In addition, the prospect of future attachments by private parties would place a perpetual cloud over the President's ongoing control of all blocked assets programs. This would further undermine the President's ability to use such assets as leverage in negotiations, even where attachments had not yet occurred.

Put simply, permitting wholesale attachment of blocked assets would eliminate the use of our blocking programs as a key tool for combating threats against our national security and, in the Iranian context, it would not achieve the goal of full payment for compensatory damages awarded against Iran.

Our Obligation and Interest in Protecting Diplomatic Property

The proposed legislation also could cause the United States to violate our obligations under international law to protect diplomatic property, and would undermine the legal protections for diplomatic property on which we rely every day to protect the safety of our diplomatic property and personnel abroad. Even though the current legislation arguably provides protection for a slightly broader range of diplomatic property than previous legislation, it is still fundamentally flawed in its failure to permit the President to protect properties, including consular properties, some diplomatic bank accounts, and diplomatic residences, which international law obligates us to protect.

The United States' legal obligation to prevent the attachment of diplomatic property could not be clearer. Protection of diplomatic property is required by the Vienna Convention on Diplomatic Relations, to which the United States and all of the states against which suits presently may be brought under the 1996 amendments to the FSIA are parties. Under Article 45 of the Vienna Convention on Diplomatic Relations we are obligated to protect the premises of diplomatic missions, together with their real and personal property and archives, of countries with which we have severed diplomatic relations or are in armed conflict. This would include diplomatic residences owned by the foreign state.

Likewise, under Article 27 of the Vienna Convention on Consular Relations, the same protection is required for consular premises, property, and archives. Attachment of any of the types of property covered by the Vienna Conventions on Diplomatic and Consular Relations could place the United States in violation of our obligations under international law. The proposed legislation would only permit the President to ensure the protection of a narrow portion of the property covered by the Vienna Conventions, and would thereby place the United States in violation of our legal obligations. In addition, the proposed legislation as drafted could cause us to breach our obligations to ensure the inviolability of missions to the United Nations, pursuant to the UN Headquarters Agreement and the General Convention on Privileges and Immunities.

Our national interest in the protection of diplomatic property could not be clearer or more important. The United States owns over 3000 buildings and other structures abroad that it uses as embassies, consulates, missions to international organizations, and residences for our diplomats. The total value of this property is between $12 and $15 billion.

Because we have more diplomatic property and personnel abroad than any other country, we are more at risk than any other country if the protections for diplomatic and consular property are eroded. If we flout our obligations to protect the diplomatic and consular property of other countries, then we can expect other countries to target our diplomatic property when they disagree strongly with our policies or actions. Defending our national interests abroad often makes the United States unpopular with some foreign governments. We should not give those states who wish the United States ill an easy means to strike at us by declaring diplomatic property fair game.

In the specific case of Iran, attachment of Iran's diplomatic and consular properties could also result in substantial U.S. taxpayer liability. Iran's diplomatic and consular properties in the United States are the subject of a claim brought by Iran against the United States before the Iran-U.S. Claims Tribunal. The Iran-U.S. Claims Tribunal is an arbitration court located at The Hague in the Netherlands. It was established as part of the agreement between Iran and the United States that freed the U.S. hostages in Iran and resolved outstanding claims that were then pending between the United States and Iran. Pursuant to this agreement and awards of the Tribunal, Iran has paid $7.5 billion in compensation to or for the benefit of U.S. nationals. The Tribunal also has jurisdiction over certain claims between the two governments. Although we are contesting this claim vigorously, the Tribunal could find that the United States should have transferred Iran's diplomatic and consular property to it in 1981. If it does so and the properties are not available because they have been liquidated to pay private judgments, the U.S. taxpayer would have to bear the cost of compensating Iran for the value of the properties. Such an award against the United States would be enforceable in the courts of any country, under the laws of that country.

Equity Among Claimants

We are also deeply concerned that the proposed legislation would frustrate equity among U.S. nationals with claims against terrorism-list states. It would create a winner-take-all race to the courthouse, arbitrarily permitting recovery for the first, or first few, claimants from limited available assets, leaving other similarly-situated claimants with no recovery at all. In fact, it would take away assets potentially available to them.

As I noted earlier, the value of the judgments (compensatory and punitive) held by the families of the Brothers to the Rescue victims exceeds the total value of blocked assets of the Government of Cuba in the United States. Similarly, even if the plaintiffs in the Flatow case were to succeed in attaching all of Iran's diplomatic and consular properties in the United States, as they have attempted to do, these properties would be insufficient to satisfy even one tenth of the damages awarded in that judgment. In each case, execution on their judgments would exhaust all of the blocked assets of these governments in the United States.

However, the Alejandre and Flatow cases do not represent the only claims of U.S. nationals against Cuba and

Iran. No other claimants would benefit at all from the proposed legislation; indeed this legislation would seriously prejudice their interests.

In the case of Cuba, the U.S. Foreign Claims Settlement Commission has certified 5,911 claims of U.S. nationals against the Government of Cuba, totaling approximately $6 billion with interest, dating back to the early 1960s. Contrary to remarks made at the April 13 hearing, these include not just expropriation claims, but also the wrongful death claims of family members of two individuals whom the Cuban Government executed after summary trial for alleged crimes against the Cuban state. Other claims relate to the Castro Government's seizure of homes and businesses from U.S. nationals. These claimants have waited over 35 years without yet receiving compensation for their losses. This bill will not help them at all.

The same situation applies with respect to Iran. In addition to the Flatow case, former hostages who were held captive in Lebanon -- David Jacobsen, Joseph Cicippio, Frank Reed, Terry Anderson and their families -- collectively have won judgments for compensatory and punitive damages against Iran totaling $406 million (see chart). Additional suits against Iran are currently pending in the Federal District courts.

Moreover, given the nature of these regimes, it remains possible that in spite of our substantial efforts to combat terrorism, foreign terrorist states will commit future acts in violation of the rights of U.S. nationals, which may give rise to claims against them. If such incidents occur, these claimants will also have an interest in being compensated.

Against this background, in which outstanding compensatory and punitive damage claims far exceed available funds, the proposed legislation would permit the first claimants to reach the courthouse to deplete all the available assets of terrorism-list governments, leaving nothing for other similarly situated claimants. Satisfaction of the judgments in the Alejandre and Flatow cases would come at the expense of all other claimants against Cuba and Iran, both past and future. This would be fundamentally unfair.

Equitable resolution of all outstanding claims of terrorism-list states must be accomplished systematically in order to ensure fairness to all parties, not in the piecemeal fashion envisioned by the proposed legislation.

In sum, permitting the attachment of blocked and diplomatic properties in individual cases, as the proposed legislation would do, would undermine our ability to combat threats to our national security, violate our obligations under international law, place our diplomatic properties and personnel abroad at risk, and lead to arbitrary inequities in the treatment of similarly-situated U.S. nationals with claims against foreign governments.

Breaching the Sovereign Immunity of the United States

We are equally concerned about the provision of the proposed legislation that would permit garnishment of debts of the United States. Not only would this provision breach the long-established principle that the United States Government has sovereign immunity from garnishment actions, it would seriously undermine our Foreign Military Sales ("FMS") program, which is an important tool supporting U.S. national security policy and strategy, by creating an exception to the processes and principles under which the program operates.

By allowing plaintiffs to attempt to tap the FMS Trust Fund to satisfy their judgments, the entire FMS program would be jeopardized as foreign customers question whether funds they were required to pay under the FMS program might be at risk of diversion or attachment. H.R. 3485 would therefore inject a major element of uncertainty and unreliability into the FMS program.

The FMS Trust Fund is used to ensure payment of U.S. suppliers for products and services provided to foreign governments in USG-approved sales of defense products and services. Under section 37 of the Arms Export Control Act, these funds are available solely for payments to U.S. suppliers, and for refunds to foreign purchasers in connection with such sales. If the FMS Trust Fund can be exposed to attachment through an act of Congress for purposes other than ensuring payment for arms sales, foreign governments may simply question the wisdom of engaging in such transactions with the United States.

The proposed legislation also will negatively affect our defense industrial base. If passed as currently written, not only will U.S. defense firms be uncertain about whether and when they will be paid, but our ability to maintain open production lines needed to support the US military, which the FMS program greatly facilitates, also would likely be disrupted.

We have heard that the intent of the proposed legislation is to "make terrorist states pay." However, exposing the Iranian FMS Trust Fund account ("Iran FMS account") to attachment will not cause Iran to pay. Here too, at the end of the day, the U.S. taxpayer will bear this burden if this fund is tapped. The United States will have to pay Iran whatever amount in the Iran FMS account is held by the Iran-U.S. Claims Tribunal to be owed to Iran. The current balance of the Iran FMS account, which is approximately $400 million, is the subject of Iran's multi-billion dollar claim against the United States before the Tribunal, arising out of the Iran FMS program. Depleting Iran's FMS account through attachment by the plaintiffs in no way discharges any obligation to Iran the U.S. Government may ultimately be determined to have by the Tribunal. And if Iran prevails on its claims, it can seek to enforce its award against U.S. property anywhere in the world, since the awards of the Iran-U.S. Claims Tribunal are enforceable in the courts of any country. Any Tribunal award that cannot be satisfied from the Iranian FMS account will have to be satisfied with U.S. government funds. Thus, American taxpayers, rather than Iran, would actually pay under H.R. 3485.

This provision is also of particular concern because it prevents the United States from meeting its obligations to make payments in satisfaction of awards the Tribunal renders against the United States. Instead, the proposed legislation would permit private parties to garnish the funds of the U.S. Government in order to collect such payments before they reach Iran. Even without this change in the law, there have been efforts in the Flatow case to garnish the payment of a $6 million Tribunal award in Iran's favor.

It is important to understand that allowing private litigants to garnish amounts we owe Iran under Tribunal awards would not discharge the U.S. Government's liability to Iran to pay such money. For example, if the efforts in the Flatow case succeed, the Flatow family will receive $6 million, but the United States will still owe Iran $6 million under the unpaid award. And again because the awards of the Iran-U.S. Claims Tribunal are enforceable in the courts of any country, Iran can seek to enforce awards against U.S. property in other countries if we do not pay them voluntarily.

Permitting garnishment of the payment of such awards would thus result in the U.S. taxpayer paying twice: once when a private claimant garnishes the payment, and a second time when Iran is able to enforce the still unsatisfied award against us abroad. Because the judgments against Iran received by these plaintiffs total in the hundreds of millions of dollars, permitting garnishment of debts owed by the United States to Iran as a means of satisfying these judgments could cost the U.S. taxpayer hundreds of millions of dollars.

Finally, while we are vigorously contesting all of Iran's claims at the Tribunal, if we are unable to pay even the smallest awards against us, our position before the Tribunal in all other claims will clearly be undermined.

Eliminating Legal Separateness of Agencies and Instrumentalities

There are also significant problems with the provision of the proposed legislation that would change the way the FSIA defines a foreign state's agencies and instrumentalities for terrorism-list countries where there is a terrorism-related judgment against it. This provision would overturn the Congress's own considered judgment when it passed the FSIA in 1976, as well as existing Supreme Court case law and basic principles of corporate and international law. In addition, it would prejudice the interests of U.S. citizens and corporations who invest abroad.

This provision would make corporations that are majority-owned or controlled by a terrorism-list foreign government liable for all of the individual debts of that government. The Congress recognized the danger of this position when it passed the FSIA in 1976. The Conference Report to that bill observed that "[i]f U.S. law did not respect the separate juridical identities of different agencies or instrumentalities, it might encourage foreign jurisdictions to disregard the juridical divisions between different U.S. corporations or between a U.S. corporation and its independent subsidiary."

We are concerned that this proposal to disregard separate legal personality, although limited in the bill to terrorism-list states and their majority owned entities, could create the perception that the United States is unreliable as a location for banking or investment. Especially for companies with linkages to foreign governments, such a provision could be viewed as an expansion of U.S. economic sanctions. It could raise concerns about the United States as a safe financial center and about the likelihood of possible legal actions against their assets in the United States. This perception could undermine the competitive ability of U.S. financial firms to lead privatizations abroad and to attract banking business and investments to the United States.

In addition, if the United States were to "pierce the corporate veil" in this manner, there could well be similar actions in foreign countries. Foreign countries may enact similar changes to their law or foreign courts might disregard the separate status of private, U.S. owned companies in cases where a litigant had a judgment against the U.S. Government.

Compared to the billions of dollars the United States Government and private U.S. interests have invested abroad, the blocked assets of terrorism-list state entities, agencies, and instrumentalities located in the United States are small. In the case of Iran, we do not have a comprehensive picture of Iranian assets in the United States that might be affected by this proposed legislation. There is currently no blocking of Iranian assets in the United States (other than the residual of property blocked during the Hostage Crisis), and thus no obligation on the part of U.S. persons to report specific information on them.

U.S. citizens, corporations, the United States Government, and taxpayers have far more money invested abroad than those of any other country, and thus have more to lose if investment protections such as those provided by the presumption of separate status is eroded. If we saddle the investors of other countries with the debts of foreign governments with which they are co-investors, as the proposed legislation would do, then we can expect U.S. investors and taxpayers to pay a considerably higher price when other governments follow our example. Finally, disregarding separate legal personality as provided for in this proposal, could lead to substantial U.S. taxpayer liability for takings claims in U.S. courts and possibly before international fora.

We are grateful for this welcome opportunity to address a very important subject involving the fight against terrorism, compensation for victims, and critical national interests. Unfortunately, however, the concerns raised here indicate that the 1996 amendment waiving sovereign immunity and creating a judicial cause of action for damages arising from acts terrorism has not met its purposes of providing compensation to victims and deterring terrorism. In fact, if blocked assets were exhausted to compensate the families, which would be the result of this bill, the leverage to affect the conduct of the terrorist-list states would be lost along with the blocked assets. We are not happy that these suits have not led to recovery for families who have brought cases under the 1996 amendment. A system that has to date left no recovery option other than one that conflicts with U.S. national interests and would result in substantial U.S. taxpayer liability is not an acceptable system.

We have been giving this a very hard look and have been working with certain members of Congress to address this difficult problem. We are anxious to continue doing so. Together, we hope to formulate short and longer-term approaches that will address the concerns -- of compensation for terrorist acts and the U.S. national interests and international obligations -- that we all share in a much more satisfactory way. Most importantly, we believe that, for a workable and effective longer-term solution, we need a careful and deliberative review of the issues, informed by our experience since the 1996 amendment.

As mentioned earlier, we suggested last year that the Administration and Congress commit to a joint commission to review all aspects of the problem, and to recommend to the

President and the Congress proposals to find ways to help these families receive compensation, in a way consistent with our overall national interests and international obligations. While this idea was rejected, we still believe that this is the best way to deal with these issues long-term. We believe that such a commission should be one of stature and with the right expertise to confront all the hard issues we have discussed today -- including the lack of effective remedies in these cases because of sanctions against terrorism-list countries under U.S. law, which are absolutely necessary to maintain.

A fundamental principle for this joint commission-- by definition -- would be the need to inventory outstanding claims and develop an effective and fair mechanism for compensation of victims of terrorism. The commission should be encouraged to think broadly, including consideration of avenues other than the judicial one created by the 1996 amendment.

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Stat statement

Apart from this, we recognize the need to provide immediate and full compensation for compensatory damage awards to these victims and their families. We propose making advance payments from rental proceeds & appropriated funds of the full amount of compensatory damage awards to those with judgments against the Government of Iran. Appropriated funds are needed because we do not believe there are any other sources of funds that are adequate and appropriate for the purpose. There is no feasible remedy to pay those claims that, in the final analysis, is not of the same source, i.e. the U.S. taxpayer. The amounts paid will be subrogated to the United States, which will be entitled and authorized to pursue reimbursement from Iran. Recognizing and addressing this at the outset gives the United States the greatest leverage and opportunity to settle these claims at the government to government level before normalization of relations.

We also propose making advance payments from blocked assets of the Government of Cuba of the full amount of compensatory damage awards to those with judgments against the Government of Cuba. As noted on page 6 of this testimony, there are approximately $54.0 million in blocked property that appears to be titled to the Government of Cuba and is available for such a one-time purpose. Of all the proposals to use blocked funds, we believe this to be the least damaging to national interests and one that could be done under existing Presidential authority.

In sum, we are committed to working together with you, members of this Subcommittee, and others to find legislative and non-legislative means for addressing these complex issues.

Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. talking points	re: Mack / Lautenberg June 16, 2000 Letter (4 pages)	06/26/2000	P5
002. talking points	re: Responding to Mack / Lautenberg 6/16/00 Letter (3 pages)	06/26/2000	P5
003. draft	re: Payment of Certain Antiterrorism Judgements (2 pages)	n.d.	P5
004. talking points	re: For Use with Zahedin Concerning Passage of the Mack - Lautenberg Bill (2 pages)	10/27/2000	P5

COLLECTION:

Clinton Presidential Records
National Secuirty Council
Office of the National Security Advisor (Mara Rudman)
OA/Box Number: 3934

FOLDER TITLE:

Legal Issues: Judgement Fund: Flatow & BTTR [Brothers to the Rescue] [4]

2009-0342-F
jm1089

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 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.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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 concerning wells [(b)(9) of the FOIA]

Talking Points for Use with Zahedin Concerning Passage of the Mack-Lautenberg Bill

- Yesterday the President signed a version of the Mack-Lautenberg bill, which relates to court judgments against Iran and Cuba obtained by certain victims of terrorism.

- The bill, as passed, was a significantly modified version of the bill originally sponsored by Senators Mack and Lautenberg.

- Both the original and final versions of the legislation had overwhelming support in the Congress. The bill passed in the House of Representatives by a vote of 361-1 and in the Senate by a vote of 95-0.

- The Administration strongly opposed the original version of the bill because, among other reasons, it would have conflicted with the United States' international legal obligations.

- The approved version of the bill is very different from the original version sponsored by Senators Mack and Lautenberg.

- Unlike the original version, the final version of the bill provides for direct payments to the judgment holders. With respect to judgments against Iran, these payments will be made primarily from U.S. treasury funds. The only other sources of payments will be the proceeds of our rental of Iran's diplomatic and consular property.

- In contrast to the original bill, judgment holders may not collect from other properties in the United States that Iran claims to own, or from the foreign military sales account, both of which are in dispute in the Tribunal.

- The bill provides that, where the payments to judgment holders come directly from U.S. treasury funds, the United States is subrogated to the claims to the extent of the payments.

- We do not believe that the final version of the legislation conflicts with any legal obligation of the United States with respect to Iran.

- We believe that the final version of the bill causes many fewer problems than the original version, which certainly would have been enacted if this compromise had not been reached.

- The United States fully intends to continue looking at ways to resolve the cases pending before the U.S.-Iran Claims Tribunal and to consider possible settlement options. Indeed, the Administration fought hard to ensure that this legislation did not undercut our mutual efforts to resolve outstanding claims.

- You will likely be hearing press reporting that characterizes the bill and its provisions in different terms. We urge you to focus on the bill's actual language and raise any questions about its provisions with us.

- We do not believe this bill should have any impact on our efforts at the Tribunal, and more generally, on our ability to address constructively issues between our governments.

- Special Negotiator David Andrews will be available to discuss this further with Dr. Eftekhar at a mutually convenient time.

[If asked what happens to the status of the judgments]

- Under the terms of the bill, if the judgment holders elect to receive payment for 110% of the compensatory damages awarded by the court, they have to relinquish all rights to all damages awarded.

- If they elect to receive payment for 100% of the awarded compensatory damages, they relinquish all rights to compensatory damages only and are free to pursue compensation for the punitive damages. The bill provides, however, that they may not attach or execute against property that is at issue before the Tribunal.

Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Samuel Berger from James Baker. Re: Victims of Terrorism. Record ID: 0001153 (1 page)	02/18/2000	P1/b(1)
001b. memo	For the President from Samuel Berger. Re: Victims of Terrorism. Record ID: 0001153 (7 pages)	02/18/2000	P1/b(1)
001c. memo	For the President from Madeline Albright. Re: Mack-Lautenberg Legislation. (2 pages)	02/08/2000	P1/b(1), P5
001d. memo	For Robert Bradtke. Re: State Department Response. (3 pages)	02/14/2000	P1/b(1)
001e. paper	State Department response to NSC memo. (9 pages)	02/14/2000	P1/b(1), P5
002. memo	Samuel Berger and Charles Brain to President Clinton re: Compensation for Victims of the Embassy Bombings (Annotated) (3 pages)	12/20/1999	P5
003a. note	President Clinton to John Podesta re: Embassy bombings (1 page)	01/31/2000	P5
003b. memo	Bob Kyle to Chief of Staff re: Benefits for Familes of Embassy Bombings (Annotated) (2 pages)	01/31/2000	P5
003c. table	re: Benefits Payable Under Current Federal Laws (1 page)	01/31/2000	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Office of the National Security Advisor (Mara Rudman)
OA/Box Number: 3934

FOLDER TITLE:

Legal Issues: Victim's Compensation

2009-0342-F
vz1116

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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Benefits Payable Under Current Federal Laws

(10 USC 1482-1483; 10 USC 1478; 22 USC 3973; 37 USC 406 (f); 5 USC 5570, 5742; 5 USC 8131-8139; 10 USC 1482a.)

	Benefits for Survivors	Injured
Military	Burial arrangement or reimbursement of $4,850 for burial expenses; $6,000 death gratuity; final move for dependents; Dependency and Indemnity Compensation (DIC) of $850 per month for a spouse plus $215 per child; Generally, $200,000 in Serviceman's Life Insurance; For spouses and dependents, Social Security death benefit of $255 & Survivor benefits; Survivors of Retirement-eligible members receive benefits equal to 55% of member's projected retired pay, offset against DIC.	Medical care in U.S. Government facilities; if disabled, possible Social Security disability, Military and/or Veterans disability retirement or severance pay.
USG Direct Hire	Transportation of deceased to place of interment and reimbursement of up to $800 for burial expenses; Transportation, upon request, of an escort for the remains; $200 for death-related expenses; Under P.L. 104-208, up to a $10,000 additional payment, less the amount provided for reimbursement and expenses. Death benefits under FECA, the Foreign Service Act, and Social Security, including spousal annuity plus additional amounts for other dependents.	Medical bills paid under the Federal Employees Compensation Act (FECA); Disability retirement if necessary or FECA annuity, at the option of the patient. Death benefits under FECA if employee later dies.
Foreign National Direct Hire	Death benefits equal to lesser of FECA or comparable local country laws.	Medical benefits equal to lesser of FECA or comparable local country laws.
Foreign National Indirect Hire	Death benefits equal to lesser of FECA or comparable local country laws.	Medical benefits equal to lesser of FECA or comparable local country laws.
Collateral Civilians	No benefit.	No benefit.

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	From White House Situation Room to Various. Subject: Log for 8 March 1996. (4 pages)	03/09/1996	P1/b(1)
002. email	From White House Situation Room to Various. Subject: Log for 9 March 1996. (6 pages)	03/10/1996	P1/b(1)
003. email	From Alan Kreczko to Joan Hunerwadel. Subject: shootdown (5 pages)	03/10/1996	P5
004. email	From Richard Nuccio to Robert Malley. Subject: Points for POTUS. (2 pages)	03/11/1996	P1/b(1)
005. email	From Robert Malley to Richard Nuccio. Subject: POTUSHB.doc. (2 pages)	03/11/1996	P1/b(1)
006. email	From Joan Hunerwadel to Marion Blieberger. Subject: 1623 Package (2 pages)	03/13/1996	P5
007. email	From Robert Malley to Richard Nuccio and Eric Schwartz. Subject: Cuba Migration. (6 pages)	03/14/1996	P1/b(1)
008. email	From James Fetig to Brian Cullen. Subject: Meeting. (2 pages)	03/15/1996	P1/b(1)
009. email	From White House Situation Room to Log for 16 March 1996. (3 pages)	003/17/1996	P1/b(1)
010. email	From Robert Malley to Mary Peters. Subject: SRB Meeting. (3 pages)	03/18/1996	P1/b(1)
011. email	From Mary Peters to Helen Walsh. Subject: Brittan. (3 pages)	03/18/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
MSMail-Record (Sept 94-Sept 97) ([Cuba, BTTR, Shootdown])
OA/Box Number: 590000

FOLDER TITLE:

[03/09/1996-03/22/1996]

2009-0342-F
vz1151

RESTRICTION CODES

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Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
012. email	From Fulton Armstrong to Richard Nuccio. Subject: Cuba Cable. (2 pages)	03/19/1996	P1/b(1)
013. email	From White House Situation Room to Various. Subject: Morning Summary for 21 March 1996. (4 pages)	03/21/1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
MSMail-Record (Sept 94-Sept 97) ([Cuba, BTTR, Shootdown])
OA/Box Number: 590000

FOLDER TITLE:

[03/09/1996-03/22/1996]

2009-0342-F
vz1151

RESTRICTION CODES

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MSMail

DATE-TIME	13 March 96 09:23
FROM	Hunerwadel, Joan S.
CLASSIFICATION	UNCLASSIFIED
SUBJECT	1623 Package [UNCLASSIFIED]
TO	Blieberger, Marion H.
CARBON_COPY	NO CC's on THIS MESSAGE
TEXT_BODY	Here it is [[1623I.DOC : 2323 in 1623I.DOC]]
ATTACHMENT FILE DATE	12 March 96 15:4
ATTACHMENT FILE NAME	1623I.DOC 1623

MEMORANDUM FOR MR. WILLIAM J. BURNS
Executive Secretary
Department of State

SUBJECT: 3Bis of the Chicago Convention

International consideration of the Cuba shootdown has refocused attention on amendment 3Bis to the Chicago Convention, and U.S. nonratification of it. One factor relevant to USG consideration of
ratification 3Bis is the international attitude toward the policies
of Colombia and Peru to intercept and, if necessary, shootdown drug
trafficking planes.

When the President decided in 1994 to support a change in domestic
law to decriminalize use of force against civilian aircraft in

narrow
circumstances, he also decided that we would work concurrently to gain diplomatic support for this position.

The State Department is requested to report by April 15 on what efforts it has taken in this regard, and with what results. It should also report, in coordination with the Department of Transportation, on what additional steps, if any, it recommends to
build additional support for the position. In particular, it should
indicate whether another higher level effort should be made to get
Colombia and Peru to file an Article 89 Declaration of Emergency with
ICAO.

Andrew D. Sens
Executive Secretary