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killed in the line of duty. It is proper that we expand this educational assistance to the families of state and local law enforcement officers because most law enforcement needs are met at the state and local level. I would have preferred to send the President the original text of our legislation since it provided full assistance to these families, but the House of Representatives decided to impose a sliding scale means test to our bill.

This past May, I called for Congress to pass this legislation during National Police Week and the annual memorial activities for law enforcement officers. I believe it would have been a fitting tribute to those who gave their lives in preserving our public safety for Congress to enact the Public Safety Officers Educational Benefits Assistance Act, S. 1525; the Care for Police Survivors Act of 1998, S. 1985; and the Bulletproof Vest Partnership Act of 1998, S. 1605. Fortunately, President Clinton signed the Bulletproof Vests Partnership Act and the Care for Police Survivors Act into law on June 16, 1998 and now he will have the opportunity to sign into law this third piece of legislation. Together these measures make a significant package of legislation to benefit the families of those who serve in law enforcement.

The unfortunate reality of contemporary life is that we may still lose upwards of 100 law enforcement officers a year nationwide. I wish there were none and I will keep working to improve the assistance and support we provide our law enforcement officers. For those families that sacrifice a loved one in the line of duty I support the college education assistance that will be made possible by the Public Safety Officers Educational Benefits Assistance Act. I look forward to the President signing this important legislation into law.

AMENDING THE ORGANIC ACT OF GUAM

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2370, which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2370) to amend the Organic Act of Guam to clarify local executive and legislative provisions in such Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CRAIG. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2370) was considered read the third time, and passed.

INTERNATIONAL CRIME AND ANTI-TERRORISM AMENDMENTS OF 1998

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 677, S. 2539.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (S. 2539) to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence.

The Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, after months of review and careful Committee action, I am proud that the full Senate is poised to approve the International Crime and Anti-Terrorism Amendments of 1998. Along with Senators LEAHY, BIDEN, and others, the Senate Judiciary Committee has undertaken a careful review of the ambitious and expansive international crime package developed by the administration and introduced by President Clinton on May 12. This proposal took the best ideas developed by the Department of Justice, the Customs Service, the Treasury Department, and other federal agencies involved in the fight against international crime.

Senator LEAHY and I have worked with the Department to winnow the bill down to 17 sections which are generally noncontroversial but would provide valuable assistance in the fight against international crime, terrorism, and drug trafficking. Potentially controversial sections have been shelved in an effort to broaden support for the legislation, and Senator LEAHY supports each of the remaining 17 sections. I hope that next Congress we can undertake a broad review of these issues and confront the more difficult provisions which have been placed aside for the moment.

It is clear that the world has become a smaller place, with faster transportation and communication, loosening of borders, and great leaps in transnational economic activity. But as these changes have benefited law-abiding citizens, they have also made it easier for criminals to spread their misery and destruction throughout the globe. Whether we talking about drug cartels, arms smugglers, terrorists, or those involved in economic espionage, international crime is an increasing threat to our national security and well-being.

This legislation should not be seen as a comprehensive response to these problems, but rather as a package of moderate technical responses to weaknesses in current law that would make a real difference in the fight against international crime. Our proposal, among other things, improves federal laws which regulate the jurisdiction of law enforcement, allows exclusion of violent criminals, determines how our legal system deals with foreign defendants and records, and responds to emerging computer and financial crimes.

On a title-by-title basis, the bill does the following:

TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES AGAINST U.S. NATIONALS ABOARD

101 Extend investigative authority to cover crimes committed against U.S. nationals abroad by organized criminal groups

102 Allow federal authorities to investigate murder and attempted murder of state and local officials

TITLE II—STRENGTHENING THE BORDERS OF THE UNITED STATES

201 Strengthen law enforcement authority to board ships

TITLE III—DENYING SAFE HAVEN TO INTERNATIONAL CRIMINALS AND ENHANCING NATIONAL SECURITY RESPONSES

301 Allow exclusion from U.S. of persons fleeing lawful, non-political prosecution

302–04 Allow exclusion of persons from U.S. involved in RICO offenses, arms trafficking, drug trafficking, or alien smuggling from U.S., with waiver authority to Attorney General

305 Forfeiture of proceeds of foreign crimes held in U.S.

306 Expand administrative summons authority under Bank Secrecy Act

307 Increase monetary penalties for violations of International Emergency Economic Powers Act

308 Add attempt crime to Trading with the Enemy Act

TITLE IV—RESPONDING TO EMERGING INTERNATIONAL CRIME THREATS

501 Expand wiretap authority to cover computer fraud and hackers

502 Expand extraterritorial jurisdiction to cover credit card, ATM, and other electronic frauds with can cause harm in U.S.

TITLE V—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

601 Authority to share proceeds from joint forfeiture actions with cooperating foreign agencies

602 Changes in procedures for MLAT's (mutual legal assistance treaties)

TITLE VI—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN U.S. COURTS

701 Allow Attorney General to reimburse state and local governments for costs incurred in assisting extraditions

702 Change Federal Rules of Evidence to ease admission of foreign records

703 Bar foreign fugitives from receiving credit for time served abroad

I appreciate the Senate's quick action on this necessary legislation, and I urge the House to pass this bill before we adjourn.

Following my statement is a detailed section-by-section analysis of the legislation.

INTERNATIONAL CRIME AND ANTI-TERRORISM AMENDMENTS OF 1998

TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES AGAINST U.S. NATIONALS ABROAD

Section 101. Murder and extortion against U.S. nationals abroad in furtherance of organized crime (old section 1001)

This section provides additional discretionary authority for investigations and

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prosecutions of organized crime groups who perpetrate criminal acts against U.S. nationals abroad. With the expanded role of Federal law enforcement, specifically the Federal Bureau of Investigations, in the investigation of international organized criminal groups, additional legislation is needed to counteract crimes occurring abroad. Statutes now in effect are narrow and generally address these kinds of issues only when they are related to international terrorism matters. This provisions broadens the scope of other current statutes so that they can be of assistance in targeting violent criminal acts committed against U.S. nationals by members of organized criminal groups. The same safeguards are required that have been established in statutes relating to international terrorism, *i.e.*, such a prosecution cannot be brought without the approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General. In subsection (g), the statute places a monetary limitation in extortion cases, and defines an organized criminal group by reference to the RICO statute. These limitations have been included to preclude any expectation that the United States will devote resources to investigate and prosecute cases which are or primarily local (versus international) impact or those which the foreign nation is adequately addressing.

Section 102. Murder and serious assault of a state or local official abroad (old section 1002)

This section provides additional discretionary authority to investigate and prosecute murders and serious assaults of State and local Officials that occur abroad when the State and local officials are involved in a federally-sponsored training or assistance program. As the United States expands its efforts to fight international crime and bring peace and stability to nations the world over, the role of State and local officials—law enforcement, judges, and others—in federally-sponsored training and other forms of assistance programs is also increasing. The scope of these programs is broad, and includes programs designed to bolster law enforcement, promote trade and tourism, and improve education. As with United States military personnel, these officials may become targets of violent acts committed abroad. Insofar as these officials are often involved in training designed to assist a host country in improving its criminal justice system or other public-sector infrastructures, the host country may lack the resources and skills to effectively investigate and prosecute such crimes. Because these officials are acting under the auspices of the Federal Government, the United States has a strong interest in prosecuting those criminals who attack and kill them. As with other provisions of law that allow extraterritorial jurisdiction over crimes, this provision requires that the Attorney General approve any prosecutions under this section.

TITLE II—STRENGTHENING THE BORDERS OF THE UNITED STATES

Section 201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information (old section 2201)

The Coast Guard is authorized to enforce, or assist in the enforcement of, all applicable federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States (14 U.S.C. §2). Coast Guard commissioned, warrant, and petty officers are also deemed to be customs officers (14 U.S.C. §143; 19 U.S.C. §1401). The Coast Guard may board and examine any vessel subject to the jurisdiction of the United States (14 U.S.C. §89). To carry out this broad grant of authority, statutory sanctions are needed against the master, operator, or person in charge of a vessel who fails to obey the order of a federal law enforcement officer to heave to, or who otherwise obstructs the exercise of law enforcement authority.

Under existing law, a civil penalty can be imposed for failure to heave to a vessel upon the command of a customs officer (19 U.S.C. §1581(d)). However, the penalty only applies to violations involving vessels at those places where a customs officer is authorized to stop and board. In addition, a criminal and civil penalty can be imposed for failure to stop a vessel when hailed by a customs officer or other government authority within 250 miles of the territorial sea of the United States (19 U.S.C. §1590(g)(8)). However, these penalties may be imposed only on vessels caught with prohibited or restricted merchandise. As a last resort, to compel vessels to heave to, the Coast Guard is authorized, after firing warning shots, to fire into and disable a vessel which has failed to stop (14 U.S.C. §637).

Appropriate sanctions are required to facilitate and enhance the Coast Guard's interdiction of vessels smuggling contraband. The Coast Guard requires an intermediate measure—short of firing into a vessel—to compel a vessel to comply with a lawful order to heave to. Without such sanctions drug smugglers can delay or sometimes prevent the legitimate exercise of Coast Guard law enforcement boarding authority.

Such sanctions are necessary to address the following scenario. The operator of a vessel fails to heave his vessel to in order to delay a Coast Guard boarding. After a lengthy pursuit, the vessel is finally boarded and no contraband is found. Or the operator of a vessel avoids being boarded by failing to heave his vessel to and fleeing; he eventually enters the territorial waters of a safe haven country. In either case, the vessel may have initially been carrying contraband—which has been jettisoned—or may have been acting as a decoy to divert Coast Guard assets away from other vessels carrying contraband. The use of such tactics by drug smugglers not only thwarts Coast Guard drug law enforcement efforts, but diverts Coast Guard assets from their other missions.

Sanctions are also required to deter nonforcible acts of obstruction during a Coast Guard boarding. While forcibly obstructing a federal law enforcement officer is a crime (18 U.S.C. §§111, 113), no statute provides penalties, criminal or civil, for non-forcible acts of obstruction during a Coast Guard boarding. Such penalties are needed as a deterrent to prevent confrontational situations from escalating from non-physical obstructions of boardings to physical assaults on Coast Guard boarding officers.

Sanctions are also required as a means to compel persons on board vessels to provide truthful information regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew. False information concerning a vessel's nationality or registration can delay the determination as to whether the United States has jurisdiction over a vessel, or hinder attempts to obtain consent from a foreign country for the United States to exercise jurisdiction. This offers drug smugglers the opportunity to jettison contraband and destroy evidence. Truthful information concerning the vessel's destination, origin, ownership, cargo, or crew facilitates the ability of the boarding team to determine whether the vessel may be engaged in drug smuggling. This information is also important for the successful prosecution of drug smuggling cases.

This section addresses these gaps in current United States drug interdiction law and makes several changes to enhance enforcement of federal law involving vessels. Subsection (a)(1) provides that it shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized federal law enforcement officer. Paragraph (2) provides that it shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to: (1) fail to comply with an order of an authorized federal law enforcement officer in connection with the boarding of the vessel; (2) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any federal law; or (3) provide false information to a federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew. Nothing in this section is a limitation on 18 U.S.C. §1001, which makes it a crime to give a false statement to a government agent.

Subsection (b) provides that this section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any federal law enforcement officer under any law of the United States to order a vessel to heave to. This section is necessary to establish that this statute in no way limits the potential actions of federal law enforcement officers that exist under other statutes.

Subsection (c) specifies that a foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section in an international agreement, or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

Subsection (d) defines the terms used in this section, including "vessel of the United States," "vessel subject to the jurisdiction of the United States;" "heave to;" and "Federal law enforcement officer."

Subsection (e) sets forth penalties for violation of this section. Any person who intentionally violates the provisions of this section shall be subject to: (1) imprisonment for not more than five years; and (2) a fine as provided in this title.

Subsection (f) authorizes the seizure and forfeiture of a vessel that is used in violation of this section. Existing customs laws and duties shall apply to such seizures and forfeitures. This subsection further provides that any vessel that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section. This provision gives added force to the prohibitions contained in the section, and provides additional incentives to would-be portrunners to comply with the law.

TITLE III—DENYING SAFE HAVEN TO INTERNATIONAL CRIMINALS AND ENHANCING NATIONAL SECURITY RESPONSES

Section 301. Exclusion of persons fleeing prosecution in other countries (old section 3201)

This section will add flight to avoid lawful prosecution as an additional ground of inadmissibility under the Immigration and Nationality Act and designate the country seeking to prosecute such individuals as the primary country of deportation. This section will be triggered if the crime for which prosecution is sought is a crime of moral turpitude, other than a purely political offense.

Individuals often seek refuge in the United States to avoid prosecution for crimes committed in other countries. Presently, if such persons are detected attempting to enter the United States, the United States must either

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find some other basis for exclusion (e.g., having been previously convicted of another crime), or embark on lengthy extradition proceedings, assuming there is an applicable extradition treaty, which is not always the case.

This section will provide an independent statutory basis to remove persons who enter or attempt to enter the United States for the purpose of avoiding lawful prosecution in another country and to return them to the country seeking their prosecution unless the Attorney General, in his/her discretion, determines that such return would be impracticable, inadvisable, or impossible. An additional ground of removal under INA section 237 is not necessary because such an alien fugitive found in the United States would be removable under section 237(a)(1)(A) as an alien inadmissible at the time of entry or adjustment of status. The provision is intended to reach situations where the person flees after a warrant has been issued or in anticipation of a warrant being issued. Nothing in this proposed new section would alter U.S. obligations to protect bona fide refugees. Persons covered by this section remain eligible to apply for withholding of deportation under INA section 241(b)(3), and asylum under section 208, to the extent those remedies would otherwise be available.

Section 302. Exclusion of persons involved in racketeering and arms trafficking (old section 3202)

This section will provide for inadmissibility of any individual whom a consular officer has reason to believe has or is engaged in certain RICO and arms trafficking offenses, or any criminal activity in a foreign country that would constitute such an offense if committed in the United States, regardless of whether a judgment of conviction has been entered or avoided due to flight, corruption, etc. This section treats serious criminals with the same standard applicable to drug traffickers and will make our ability to exclude aliens involved in such activities less dependent upon our ability to draw inferences about a person's intent to do something illicit in the United States. With only minor exceptions, the RICO offenses referenced constitute crimes involving moral turpitude that are already grounds for exclusion under the Immigration and Nationality Act.

The Provision includes a waiver provision that allows the Attorney General to waive its applicability for offenses other than aggravated felonies. This provision has been added to provide the Attorney General flexibility to waive these provisions in the event that there is a law enforcement, humanitarian or other important national interest justifying such waiver.

A part of this section related to spouses and adult children of persons in this category has been removed before Committee consideration.

Section 303. Clarification of exclusion of persons involved in drug traffickers (old section 3203)

This section makes minor changes to the law concerning exclusion of those the Attorney General or a consular officer has reason to believe are or have been an illicit trafficker in controlled substances.

A part of this section related to spouses and adult children of persons in this category has been removed before Committee consideration.

Section 304. Exclusion of persons involved in international alien smuggling (old section 3204)

This section will address the problem of excluding international alien smugglers where there is evidence that they have assisted aliens to illegally enter countries other than the United States, but not the United States. Often there is a strong likelihood that such assistance was part of a scheme to illegally bring such aliens into the U.S. or could develop into a scheme to illegally bring such aliens into the U.S., but under current law the alien providing such assistance may not be excludable. This provision will allow consular officers and the Immigration and Naturalization Service to find such aliens ineligible for entry into the U.S. when the alien should have known that the illegal entry into another country would have assisted other aliens to enter the U.S. in violation of law.

Section 305. Seizure of assets of persons arrested abroad (old section 4008)

This section relates to situations where a person has been arrested in a foreign country and there is a danger that property subject to forfeiture in the United States in connection with the foreign offenses will disappear if it is not immediately restrained. In the case of foreign arrests, it is possible for the property of the arrested person to be transferred out of the United States before U.S. law enforcement officials have received from the foreign country the evidence necessary to support a finding a probable cause for the seizure of the property in accordance with federal law. This situation is most likely to arise in the case of drug traffickers and money launderers whose bank accounts in the United States may be emptied within hours of an arrest by foreign authorities in the Latin America or Europe.

To ensure that property subject to forfeiture in such cases is preserved, the new provision provides for the issuance of an ex parte restraining order upon the application of the Attorney General and a statement that the order is needed to preserve the property while evidence supporting probable cause for seizure is obtained. A party whose property is retrained would have a right to a post-restraint hearing in accordance with Rule 65(b), Fed.R. Civ.

Section 306. Administrative summons authority under the Bank Secrecy Act (old section 4015)

This section will amend 31 U.S.C. §5318(b)(1) to expand the situations in which an administrative summons will be sufficient to obtain information from financial institutions subject to the Bank Secrecy Act (BSA). At present, the Secretary of the Treasury is permitted to examine information maintained at financial institutions under the requirements of the BSA, but is permitted to summon information or individuals only "in connection with investigations for the purpose of civil enforcement of violations of" BSA, it regulations, or certain related statutes. BSA policy requires the government to focus on the efficacy of compliance systems rather than attempt to identify particular BSA violations. Restriction of summons authority to investigations for the purpose of civil enforcement of BSA violations could hamper the ability of the Secretary to review the adequacy of compliance systems. In addition to existing civil enforcement authority, this amendment will enable the Secretary to review the adequacy of BSA compliance systems. Subpoena requests will remain subject to the account holder rights specified in the Right to Financial Privacy Act.

Section 307. Criminal and civil penalties under the International Emergency Economic Powers Act (old section 4018)

This provision will increase the monetary limits of the civil and criminal penalty authorities provided for in the International Emergency Economic Powers Act (IEEPA). IEEPA currently provides for civil penalties of up to $10,000 per violation of IEEPA prohibitions, and criminal penalties of up to $50,000 per violation for individual and corporations, and imprisonment for up to 10 years per violation by individuals and participating corporate officers. These limitations no longer constitute effective deterrents for flagrant or willful violations of IEEPA and are significantly less than the penalty limitations provided for in the Trading with the Enemy Act for violations of economic sanctions imposed under that statute. The ineffectiveness of the civil penalty cap is particularly apparent in situations where the IEEPA violation relates to transactions (and profits) valued at many times the maximum penalty amount. This section will raise the IEEPA civil penalty authority to $50,000 per violation, and raise the criminal penalty monetary limits to $250,000 per violation for individuals and participating corporate officers, as is provided for criminal offenses generally in 18 United States code §3571(b)(3), and $1 million per violation for corporations.

Section 308. Attempted violations of the Trading With the Enemy Act (old section 4019)

This section will amend the Trading with the Enemy Act (TWEA) to provide that criminal and civil penalties may be imposed not only against any person who violates a license, order, or regulation issued under TWEA, but also against a person who attempts to violate such a license, order, or regulation. last year, Congress added an "attempt" provision to the International Emergency Economic Powers Act (IEEPA), but did not add a similar provision to its companion statute, TWEA. TWEA lacks an attempt provision similar to those found in other export administration statutes, for example, the Export Administration Act. Recent executive orders imposing economic sanctions and regulations implementing such orders typically include language prohibiting attempted violations. Current case law in the federal circuit courts of appeal supports promulgation of regulations prohibiting attempts to violate statutes not explicitly containing attempt language. In spite of these factors, the absence of an attempt provision in TWEA makes prosecution of attempted violations more problematic. to clarify existing law and to insulate prosecutions of attempted violations from any possibility of attack based on the scope of the President's authority, these amendments expressly prohibit attempts to violate TWEA.

TITLE IV—RESPONDING TO EMERGING INTERNATIONAL CRIME THREATS

Section 401. Enhanced authority to investigate computer fraud and attacks on computer systems (old section 5101)

This section would add certain violations relating to computer crime to the list of serious criminal activity for which 18 U.S.C. §2516 permits court authorized interception of wire, oral, and electronic communications when the rigorous requirements of chapter 119 (including section 2516) are met. Violations of 18 U.S.C. §1030 can include computer fraud and attacks on computer systems, such as those controlling the public telecommunications networks, air traffic control, and the electric power network. In computer attack cases, since the evidence of the crime may lie largely in cyberspace, interceptions of wire and electronic communications may be the primary or only available avenue of investigation. Moreover, in computer cases where the activities originate from a business or university, voicetaps may be the only way to complete the identification of the criminal actually using the terminal involved. The statute limits wiretap authority to investigation of felony offenses.

Section 402. Jurisdiction over certain financial crimes committed abroad (old section 5102)

This section clarifies the extraterritorial jurisdiction of 18 U.S.C. §1029 (access device

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fraud). It expressly recognizes United States jurisdiction over access device fraud—including credit card fraud, debit card fraud and telecommunications fraud—in cases where the fraud causes an effect on an entity within the jurisdiction of the United States, even if the defendant has never physically entered the United States. Such a clarification is of great importance to the United States' ability to protect its financial system. The modern financial system relies substantially on access devices to access and utilize a vast array of accounts and systems, including credit and debit card accounts, accounts in banks and other financial institutions, electronic funds, and telecommunications systems. Increasingly, U.S. financial, corporate and government entities have implemented access device payment systems to conduct transactions reaching billions of dollars per day. The dramatic increase in electronic and computerized access to such systems from outside the United States has enhanced the vulnerabilities of these systems to criminal activities internationally. By recognizing that the United States has the authority to protect its access device systems against both foreign and domestic threats, this section ensures the security and integrity of United States based payment systems in the same way that 18 U.S.C. §470 ensures the integrity of United States currency. Together, this section and 18 U.S.C. §470 will enhance the United States' ability to protect its financial system and combat transnational financial crimes that target that system.

TITLE V—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Section 501. Sharing proceeds of joint forfeiture operations with cooperating foreign agencies (old section 6091)

This proposal provides for expansion of the authorization to share forfeited property with foreign governments that cooperate in federal forfeitures. It was Section 406 of the "Forfeiture Act of 1996" which has been previously submitted to Congress. Section 981(i) of Title 18, U.S. Code, authorizes the sharing of forfeited property with foreign governments in certain circumstances. It currently applies to all civil and criminal forfeitures under 18 U.S.C. §§981, 982, which are the forfeiture statutes for most federal offenses in Title 18. Older parallel provisions applicable only to drug cases and Customs cases appear in 21 U.S.C. §881(e)(1)(E) and 19 U.S.C. §1616a(c)(2), respectively.

The amendment simply extends the existing sharing authority to all other criminal and civil forfeitures, including those undertaken pursuant to RICO, the Immigration and Naturalization Act, the antipornography and gambling laws, and other statutes throughout the United States Code. Because the amendment makes the parallel provisions in the drug and customs statutes unnecessary, Section 881(e) is amended to remove the redundancy.

Section 502. Streamlined procedures for execution of MLAT requests (old section 6002)

This section expands the authority of U.S. district courts to execute, or order execution of, foreign requests for assistance in criminal matters made pursuant to mutual legal assistance treaties (MLATs), conventions, and executive agreements such as an "anti-trust mutual assistance agreement" (see, e.g., 15 U.S.C. §6201 et seq.). This section applies only when the execution of such a request requires or appears to require the use of compulsory measures in more than one district. On such occasions, this section permits a judge or judge magistrate in any district involved in a multidistrict execution, or in the District of Columbia, to execute the entire request.

The U.S. generally relies on 28 U.S.C. §1782—which authorizes the practice of appointing a "commissioner" to execute a foreign request for assistance—to provide the framework for executing foreign requests for assistance, whether made by letter rogatory, letter of request, request pursuant to an MLAT, or other similar form of request. Section 1782 calls for execution of the foreign request in the district where the witness resides or is found, or where the evidence is located. Consequently, the Attorney General—the authority to whom foreign requests in criminal matters are generally sent for execution—often transmits the same request to each district in which a witness or evidence may be located for execution of that portion directly connected to the district.

This practice of transmitting a request to each and every district in which assistance requested may be found is inefficient and prone to creating delay. A majority of requests entail execution in multiple districts. Execution of a multiple district request requires substantial coordination by U.S. authorities (e.g., often documents located in different districts must be produced and analyzed before testimony from witnesses located in other districts can be profitably taken) and duplication of efforts by U.S. authorities (e.g., a judge or magistrate judge, prosecutor, and assisting agent or agents in each district must become familiar with and involved in executing the same request). In addition to the profligate expenditure of U.S. resources, the practice often results in delay, rendering the U.S. unable to provide foreign law enforcement authorities, and especially foreign treaty partners, with the level of service that the U.S. would like to receive with respect to U.S. requests. Another problem often encountered with multidistrict requests is that a U.S. Attorney's Office designated to execute a portion of a request is unable to devote the necessary resources at the time requested. If timing is critical, and it often is, execution of the request in a district involved in another aspect of the execution, or in the District of Columbia, is a reasonable solution.

This proposal provides an alternative to the current practice of executing foreign requests for assistance only in each and every district in which a witness or evidence is located. Placing authority in a U.S. district court for a district otherwise involved in the execution of a multidistrict request, or in the U.S. District Court for the District of Columbia, should dramatically improve: (1) the efficient use of U.S. resources to execute foreign requests that involve multiple districts, and (2) the execution of requests involving multiple districts in a timely manner.

Providing the U.S. District Court for the District of Columbia as an alternative venue also permits the Attorney General, with requests that require substantial allocation of resources or coordination, to provide attorneys to undertake execution in the District of Columbia in conjunction with the United States Attorney's Office for the District of Columbia.

Finally, this proposal recognizes that executing foreign requests in criminal matters by requiring witnesses to appear in different districts from those in which they are located may create some hardships for witnesses, just as it does in domestic criminal investigations and prosecutions where the U.S. prosecutor subpoenas witnesses to appear anywhere in the U.S. (i.e., where in the U.S. the investigation or prosecution is taking place). This proposal contemplates the same possibility of travel to comply with a commissioner's order as in a domestic criminal investigation or prosecution; however, it provides a procedure to balance the hardship against the exigencies of the request. Upon notice to either the court or the commissioner executing the request, the court will decide whether to transfer execution involving the complaining witness to that witness' district by balancing the (1) inconvenience to the witness against the (2) negative impact upon execution of the request.

TITLE VI—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN U.S. COURTS

Section 601. Reimbursement of state and local law enforcement agencies in international crime cases (old section 7091)

This proposal authorizes the Attorney General to designate funds to defray unusual expenses incurred by state and local jurisdictions in international extradition cases, including the costs of transporting the fugitive back to the United States and the cost of translating the extradition documents into the language of the foreign state.

State and local prosecutors are sometimes forced to abandon efforts to extradite serious offenders who have fled abroad because the prosecutors lack the resources to pay the cost of international extradition. Because extradition in cases involving violent offenders or career criminals is a national priority, this provision would authorize the Attorney General to allocate funds to pay the costs of such extraditions in serious cases if the state or local authorities certify that the financial assistance is needed. The Marshals Service spent about $900,000 last year transporting federal fugitives back to the U.S., and it estimates that transportation of all state and local fugitives could cost twice that amount. The Marshals Service currently retrieves fugitives from abroad for state and local jurisdictions, on a reimbursable basis.

This provision is not intended to shift the entire financial burden that may be involved in international cases from states and localities to the federal government. Rather, it provides authority to assist state and localities in meeting extraordinary expenses that could not reasonably be anticipated in the local jurisdiction's ordinary budget process.

Section 602. Facilitating the admission of foreign records in United States courts (old section 7002)

This section provides a statutory basis to authenticate and admit into evidence, in federal judicial proceedings, foreign-based records of regularly conducted activity obtained pursuant to official requests. The section expands the extant statutory basis with respect to foreign business records, making records produced in accordance with the statute admissible to civil proceedings (whereas the statute currently authorizes admission only in criminal proceedings). The section also provides an independent statutory basis for foreign official records, treating official records produced in accordance with the statute as admissible in a fashion similar to foreign business records. The section continues to incorporate elements of the Federal Rules of Evidence, especially Rule 803(6), that ensure the reliability of the foreign records and maintains the requirement of a foreign certification or similar certification provided by treaty, convention, or agreement.

To make foreign business records admissible in a civil proceeding under Federal Rules of Evidence 803(6) and 901(a)(1), a foreign custodian or other qualified witness must give testimony, either by appearing at a proceeding in the U.S. or by providing a deposition taken abroad and introduced at the U.S. proceeding, which testimony or deposition establishes that the foreign business records are authentic (901(a)(1)) and reliable (Rule 803(6)). The United States has no means by which to compel the attendance of a foreign

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custodian or other qualified foreign witness at a U.S. proceeding to testify. Thus, to adduce the requisite testimony, U.S. authorities must (1) rely on the prospective witness' willingness to voluntarily appear (which is rare and subject to vicissitude) or (2) attempt to depose the witness abroad. The latter process is unduly cumbersome and not available in many situations (e.g., in matters involving tax administration pursuant to tax treaties or agreements). This section provides a streamlined process for making foreign business records admissible without having to rely on the unpredictability of a foreign witness' voluntary travel to the U.S. or the unpredictable and cumbersome process of deposing the witness abroad.

Foreign official records include records of birth, vehicle registry, property transfer and liens, foreign business incorporation, and the like. Such records are routinely kept in much the same manner as business records. This section authorizes a single certification for both self-authentication and foundation for an exception to the hearsay rule similar to that currently available for foreign business records. It, likewise, will streamline the process of securing documents admissible in U.S. judicial proceedings while, at the same time, maintaining assurances of reliability.

Section 603. Prohibiting fugitives from benefitting from time served abroad (old section 7004)

This proposal is designed so that defendants who become fugitives either by fleeing the United States, or by remaining outside the United States (in the event they are sought based on an assertion of extraterritorial jurisdiction), in order to avoid trial and punishment do not inappropriately benefit from their actions. Because U.S. prison time is now credited to fugitives after their return to the U.S. for the time during which fugitives pursue tactics in foreign countries designed to delay their return and trial in the United States, the current law unwittingly encourages fugitives to file every frivolous challenge to their rendition which is available, in order to delay the case and perhaps weaken the prosecution's case. This proposal is needed because the time consuming and complex nature of the international extradition process which involves foreign sovereigns, foreign legal laws and processes, and foreign languages, typically creates substantially longer delays than the delays that occur in the comparable domestic situation. Nationwide Federal jurisdiction and interstate compacts typically result in the swift rendition of interstate fugitives.

Mr. LEAHY. Mr. President, I am pleased to have been able to work with the Senator from Utah to gain passage of this important legislation, the Improvements to International Crime and Anti-Terrorism Amendments of 1998. It will give United States law enforcement agencies important tools to help them combat international crime.

Unfortunately, recent incidents have made amply clear that crime and terrorism directed at Americans and American interests abroad are part of our modern reality. The bombings of U.S. embassies in Kenya and Tanzania are just the most recent reminders of how vulnerable American citizens and interests are to terrorist attacks. In a shockingly brutal attack, more than 250 men, women and children, were murdered in cold blood. Among those 250 victims were 12 of our fellow citizens.

With improvements in technology, criminals now can move about the world with ease. They can transfer funds with a push of a button, or use computers and credit card numbers to steal from American citizens and businesses from any spot on the globe. They can strike at Americans here and abroad. The playing field keeps changing, and we need to change with it.

This bill does exactly that, not with sweeping changes but with thoughtful provisions carefully targeted at specific problems faced by law enforcement. The bill gives tools and protection to investigators and prosecutors, while narrowing the room for maneuver that international criminals and terrorists now enjoy.

I initially introduced certain provisions of this bill on April 30, 1998, in the Money Laundering Enforcement and Combating Drugs in Prisons Act of 1998, S. 2011, with Senators DASCHLE, KOHL, FEINSTEIN, and CLELAND. Again, on July 14, 1998, I introduced with Senator BIDEN, on behalf of the Administration, the International Crime Control Act of 1998, S. 2303, which contains many of the provisions set forth in this bill. Virtually all of the provisions in the bill were included in another major anti-crime bill, the "Safe Schools, Safe Streets, and Secure Borders Act of 1998," that I introduced on September 16, 1998, along with Senators DASCHLE, BIDEN, MOSELEY-BRAUN, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, BINGAMAN, REID, MURRAY, DORGAN, and TORRICELLI.

We have drawn from these more comprehensive bills a set of discrete improvements that enjoy bipartisan support so that important provisions may be enacted promptly. Each of these provisions has been a law enforcement priority.

The bill would provide discretionary authority for investigations and prosecutions of organized crime groups that kill or threaten violence against Americans abroad, when in the view of the Attorney General, the organized crime group was trying to further its objectives. This should not be viewed as an invitation for American law enforcement officers to start investigating organized crime around the world, but when such groups are targeting Americans abroad for physical violence and the Attorney General believes it is necessary, we must act.

In addition, the bill would expand current law to criminalize murder and other serious crimes committed against state and local officials who are working abroad with federal authorities on joint projects or operations. The penalties for murder against such state or local officials, who are acting abroad under the auspices of the federal government, are the same as for federal officers, under section 1119 of title 18, United States Code, and would therefore authorize imposition of the death penalty. While I oppose the death penalty, there is no reason to distinguish the penalties for murder of federal versus non-federal officials, who are both acting under the auspices of the Federal Government.

Also, the authority of the Attorney General to bring such prosecutions is limited so as not to interfere with the criminal jurisdiction of the foreign nation where the murder occurred. Thus, I would expect this authority to be exercised only in the rare circumstance in which the Attorney General believes the foreign country is not adequately addressing the crime.

The bill contains provisions to protect our maritime borders by providing realistic sanctions for vessels that fail to "heave to" or otherwise obstruct the Coast Guard. No longer will drug-runners be able to stall or resist Coast Guard commands with impunity. The additional sanctions for resisting "heave to" orders and for lying to law enforcement officers about a boat's destination, origin and other pertinent matters, will help the Coast Guard in its efforts to interdict illegal drugs and other contraband.

The bill also provides specific authority to exclude from entry into our country international criminals and terrorists, including those engaged in flight to avoid foreign prosecution, alien smuggling, or arms or drug trafficking under specific circumstances. At the same time, we ensure that the Attorney General has full authority to make exceptions for humanitarian and similar reasons.

The bill includes important money laundering provisions strongly supported by law enforcement. At a recent Judiciary Committee hearing on anti-terrorism, FBI Director Louis Freeh noted the importance of money laundering laws as a tool in stopping not only international drug kingpins, but also international terrorists, such as Usama bin Laden, the multi-millionaire terrorist who has been linked to the recent embassy bombings.

The bill has two important provisions aimed at computer crimes: it provides expanded wiretap authority, subject to court order, to cover computer crimes, and also gives us extraterritorial jurisdiction over access device fraud, such as stealing telephone credit card numbers, where the victim of the fraud is within our borders.

We cannot stop international crime without international cooperation, however. This bill facilitates such cooperation by allowing our country to share the proceeds of joint forfeiture operations, to encourage participation by foreign countries. It streamlines procedures for executing MLAT requests that apply to multiple judicial districts. Furthermore, the bill addresses the essential but often overlooked role of state and local law enforcement in combating international crime, and authorizes reimbursement of state and local authorities for their cooperation in international crime cases. The bill helps our prosecutors in international crime cases by facilitating the admission of foreign records in U.S. courts. Finally, it will speed the wheels of justice by prohibiting international criminals from being credited

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with any time they serve abroad while they fight extradition to face charges in our country.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. I thank my friend from Utah, Senator HATCH, for his help in making this bill a reality. Working together, we were able to craft a bipartisan bill that will accomplish what all of us want, to make America a safer and more secure place.

Finally, I would like to address the encryption amendment that Senator KYL offered and then withdrew during Committee consideration of this bill. This amendment would have criminalized the use of encryption in the commission of any federal felony.

Unlike analogous provisions incorporated into pending encryption bills, the Kyl amendment was not limited in any way to the criminal use of encryption "for the purpose of avoiding detection by law enforcement agencies or prosecution", as reflected in the SAFE bill, H.R. 695, or "with the intent to conceal that communication or information for the purpose of avoiding detection by a law enforcement agency or prosecutor," as reflected in the Ashcroft-Leahy E-PRIVACY bill, S. 2067. The scope of the offered Kyl amendment raised concerns about inviting government over-reaching. There is no requirement in the amendment, for example, that a conviction for use of encryption be predicated on a conviction of any underlying criminal offense.

Moreover, were this amendment to become law, it could chill even the routine use of encryption in the course of every day business, such as communications between clients and lawyers or accountants, since the mere use of encryption could result in exposure to substantial criminal penalties of up to five years in prison.

In addition, as I noted during the committee's discussion of the amendment, the definition of encryption in the offered Kyl amendment varied greatly from definitions used in pending legislation, including bills I have introduced and cosponsored, that have been thoroughly vetted with encryption and other technical exports. The Kyl amendment definition of "encryption" is drafted so broadly that it could apply to any transformation of analog to digital communications, without any use of mathematical algorithms commonly associated with encryption. We can and should do better if we are going to add a definition of this highly technical operation to the criminal code for the first time.

I appreciate the chairman's efforts, and Senator KYL's willingness, to address this issue in a considered fashion in the next Congress.

As a former prosecutor, I have long been concerned about helping law enforcement have the tools necessary to deal with changing technologies, and at the same time provide procedural safeguards to protect privacy and other important constitutional rights of American citizens. That is why I sponsored, among other laws, the Electronic Communications Privacy Act in 1986 and the Communications Assistance for Law Enforcement Act in 1994, and worked with Senator KYL and Chairman HATCH on passage of the National Information Infrastructure Protection Act in 1996 and, most recently, on identity theft legislation.

When it comes to encryption, I fully appreciate the challenge such technology poses for law enforcement officers, who may increasingly find that the communications they capture during court authorized electronic surveillance is unintelligible because it is scrambled with encryption technology. In the last Congress, I introduced legislation, S. 1587, that contained a provision to criminalize the use of encryption to obstruct justice. Again, in this Congress, I have introduced a bill with such a provision, S. 376, and cosponsored with Senator ASHCROFT yet another bill, S. 2067, that contains a criminal penalty for the willful use of encryption to conceal incriminating communications or information. Thus, taking the step of creating a new crime to address the criminal use of encryption is not a new idea to me.

I remain frustrated that sound encryption legislation was not enacted this year, particularly since this technology is such an effective crime prevention tool. The longer we go without addressing encryption policy in a comprehensive fashion, the longer our computer information, networks and critical infrastructures remain vulnerable to cyber-attacks and theft.

I encourage the FBI to continue working with industry to try to define some cooperative efforts to facilitate court ordered access to encrypted files and communications. But the job of Congress is to ensure that procedural safeguards are in place to guide such cooperation in ways that comport with our Constitution. I look forward to working with Senator KYL, as we have successfully in the past on technology issues, and with other members, on comprehensive encryption legislation that addresses both the criminal use of encryption as well as policy changes to promote the widespread use of encryption as a shield against cybercrime.

CRIMINALIZING THE USE OF ENCRYPTION

Mr. KYL. Mr. President, I am concerned over our inability to advance good policy on encryption this Congress. The Senate has held many hearings on encryption, and there have been a number of bills introduced, with nothing concrete to show for it. What these bills have in common is an approach that would fold all aspects of national policy on encryption into one legislative vehicle. That has been a recipe for gridlock.

Meanwhile, terrorist and criminals and drug lords are increasingly using encryption to hide their acts from law enforcement investigators. This already serious problem will continue to worsen unless we find some way to level the playing field.

In committee, I offered an amendment I believed to be noncontroversial. It would criminalize the use of encryption in furtherance of a crime. It echoes language that appeared in each and every encryption bill introduced this Congress. And yet, it was rejected by some Members because it did not address other aspects of encryption policy. We need to get beyond this all-or-nothing approach.

Mr. HATCH. I am generally supportive of the concept embodied in the amendment offered by the Senator from Arizona which was discussed in committee, and I regret that it was not possible to work out acceptable language to include in this bill. Next Congress, I believe the Judiciary Committee should take up the challenge of reviewing this Nation's encryption policies and ensure that law enforcement agencies can continue to fulfill their critical responsibilities. This review will include a hearing to consider the FBI's proposed Technical Support Center, in order to evaluate its potential for solving some of law enforcement's access concerns. I pledge my support to help enact legislation to address the use of encryption in furtherance of a felony.

Mr. CRAIG. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2539) was read the third time and passed as follows:

S. 2536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Crime and Anti-Terrorism Amendments of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES AGAINST UNITED STATES NATIONALS ABROAD
Sec. 101. Murder and extortion against United States nationals abroad in furtherance of organized crime.
Sec. 102. Murder or serious assault of a State or local official abroad.
TITLE II—STRENGTHENING THE BORDERS OF THE UNITED STATES
Sec. 201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.
TITLE III—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS AND ENHANCING NATIONAL SECURITY RESPONSES
Sec. 301. Inadmissibility of persons fleeing prosecution in other countries.
Sec. 302. Inadmissibility of persons involved in racketeering and arms trafficking.

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Sec. 303. Clarification of inadmissibility of persons who have benefited from illicit activities of drug traffickers.
Sec. 304. Inadmissibility of persons involved in international alien smuggling.
Sec. 305. Seizure of assets of persons arrested abroad.
Sec. 306. Administrative summons authority under the Bank Secrecy Act.
Sec. 307. Criminal and civil penalties under the International Emergency Economic Powers Act.
Sec. 308. Attempted violations of the Trading With the Enemy Act.
TITLE IV—RESPONDING TO EMERGING INTERNATIONAL CRIME THREATS
Sec. 401. Enhanced authority to investigate computer fraud and attacks on computer systems.
Sec. 402. Jurisdiction over certain financial crimes committed abroad.
TITLE V—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME
Sec. 501. Sharing proceeds of joint forfeiture operations with cooperating foreign agencies.
Sec. 502. Streamlined procedures for execution of MLAT requests.
TITLE VI—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN UNITED STATES COURTS
Sec. 601. Reimbursement of State and local law enforcement agencies in international crime cases.
Sec. 602. Facilitating the admission of foreign records in United States courts.
Sec. 603. Prohibiting fugitives from benefiting from time served abroad.

TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES AGAINST UNITED STATES NATIONALS ABROAD

SEC. 101. MURDER AND EXTORTION AGAINST UNITED STATES NATIONALS ABROAD IN FURTHERANCE OF ORGANIZED CRIME.

Section 2332 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following:

"(d) EXTORTION OF UNITED STATES NATIONALS ABROAD.—Whoever commits or attempts to commit extortion against a national of the United States, while the national is outside the United States, shall be fined under this title, imprisoned not more than 20 years, or both.";

(3) in subsection (e), as redesignated, by inserting ", or was intended to further the objectives of an organized criminal group. A certification under this paragraph shall not be subject to judicial review" before the period at the end; and

(4) by adding at the end the following:

"(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as indicating an intent on the part of Congress—

"(1) to interfere with the exercise of criminal jurisdiction by the nation or nations in which the criminal act occurred; or

"(2) to mandate that each potential violation should be the subject of investigation or prosecution by the United States.

"(g) DEFINITIONS.—In this section—

"(1) the term 'extortion' means the obtaining of property worth $100,000 or more from another by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged or destroyed; and

"(2) the term 'organized criminal group' means a group that has a hierarchical structure or is a continuing enterprise, and that is engaged in or has as a purpose the commission of an act or acts that would constitute racketeering activity (as defined in section 1961) if committed within the United States.".

SEC. 102. MURDER OR SERIOUS ASSAULT OF A STATE OR LOCAL OFFICIAL ABROAD.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1123. Murder or serious assault of a State or local law enforcement, judicial, or other official abroad

"(a) DEFINITIONS.—In this section:

"(1) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given the term in section 2119.

"(2) STATE.—The term 'State' has the meaning given the term in section 245(d).

"(b) PENALTIES.—Whoever, in the circumstance described in subsection (c)—

"(1) kills or attempts to kill an official of a State or a political subdivision thereof shall be punished as provided in sections 1111, 1112, and 1113; or

"(2) assaults an official of a State or a political subdivision thereof, if that assault results in serious bodily injury shall be punished as provided in section 113.

"(c) CIRCUMSTANCE DESCRIBED.—The circumstance described in this subsection is that the official of a State or political subdivision—

"(1) is outside the territorial jurisdiction of the United States; and

"(2) is engaged in, or the prohibited activity occurs on account of the performance by that official of training, technical assistance, or other assistance to the United States or a foreign government in connection with any program funded, in whole or in part, by the Federal Government.

"(d) LIMITATIONS ON PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated and shall not be subject to judicial review.

"(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to indicate an intent on the part of Congress—

"(1) to interfere with the exercise of criminal jurisdiction by the nation or nations in which the criminal act occurred; or

"(2) to mandate that each potential violation should be the subject of investigation or prosecution by the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1123. Murder or serious assault of a State or local law enforcement, judicial, or other official abroad.".

TITLE II—STRENGTHENING THE BORDERS OF THE UNITED STATES

SEC. 201. SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTING A LAWFUL BOARDING, AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term 'Federal law enforcement officer' has the meaning given that term in section 115(c).

"(2) HEAVE TO.—The term 'heave to' means, with respect to a vessel, to cause that vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and the sea state.

"(3) VESSEL OF THE UNITED STATES; VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings given those terms in section 3 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

"(b) FAILURE TO OBEY AN ORDER TO HEAVE TO.—

"(1) IN GENERAL.—It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) IMPEDING BOARDING; PROVIDING FALSE INFORMATION IN CONNECTION WITH A BOARDING.—It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States knowingly or willfully to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the destination, origin, ownership, registration, nationality, cargo, or crew of the vessel.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to limit the authority granted before the date of enactment of the International Crime and Anti-Terrorism Amendments of 1998 to—

"(1) a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other provision of law enforced or administered by the United States Customs Service; or

"(2) any Federal law enforcement officer under any Federal law to order a vessel to heave to.

"(d) CONSENT OR WAIVER OF OBJECTION BY A FOREIGN COUNTRY.—

"(1) IN GENERAL.—A foreign country may consent to or waive objection to the enforcement of United States law by the United States under this section by international agreement or, on a case-by-case basis, by radio, telephone, or similar oral or electronic means.

"(2) PROOF OF CONSENT OR WAIVER.—The Secretary of State or a designee of the Secretary of State may prove a consent or waiver described in paragraph (1) by certification.

"(e) PENALTIES.—Any person who intentionally violates any provision of this section shall be fined under this title, imprisoned not more than 5 years, or both.

"(f) SEIZURE OF VESSELS.—

"(1) IN GENERAL.—A vessel that is used in violation of this section may be seized and forfeited.

"(2) APPLICABILITY OF LAWS.—

"(A) IN GENERAL.—Subject to subparagraph (C), the laws described in subparagraph (B) shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any provision of this section.

"(B) LAWS DESCRIBED.—The laws described in this subparagraph are the laws relating to the seizure, summary, judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of the property or the proceeds from the sale thereof, the remission or mitigation of the forfeitures, and the compromise of claims.

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"(C) EXECUTION OF DUTIES BY OFFICERS AND AGENTS.—Any duty that is imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to a seizure or forfeiture of property under this section by the officer, agent, or other person that is authorized or designated for that purpose.

"(3) IN REM LIABILITY.—A vessel that is used in violation of this section shall, in addition to any other liability prescribed under this subsection, be liable in rem for any fine or civil penalty imposed under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.".

TITLE III—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS AND ENHANCING NATIONAL SECURITY RESPONSES

SEC. 301. INADMISSIBILITY OF PERSONS FLEEING PROSECUTION IN OTHER COUNTRIES.

(a) NEW GROUNDS OF INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(G) UNLAWFUL FLIGHT TO AVOID PROSECUTION.—Any alien who is coming to the United States solely, principally, or incidentally to avoid lawful prosecution in a foreign country for a crime involving moral turpitude (other than a purely political offense) is inadmissible.".

(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (3)(A), by striking "(1) and (2)" and inserting "(1), (2), and (4)"; and

(2) by adding at the end the following:

"(4) ALIENS SOUGHT FOR PROSECUTION.—Notwithstanding paragraphs (1) and (2) of this subsection, any alien who is found removable under section 212(a)(2)(G) (or section 212(a)(2)(G) as applied pursuant to section 237(a)(1)(A)), shall be removed to the country seeking prosecution of that alien unless, in the discretion of the Attorney General, the removal is determined to be impracticable, inadvisable, or impossible. In that case, removal shall be directed according to paragraphs (1) and (2) of this subsection.".

SEC. 302. INADMISSIBILITY OF PERSONS INVOLVED IN RACKETEERING AND ARMS TRAFFICKING.

(a) NEW GROUNDS OF INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

"(H) RACKETEERING ACTIVITIES.—Any alien is inadmissible if the consular officer or the Attorney General knows or has reason to believe that the alien is or has been engaged in activities that, if engaged in within the United States, would constitute 'pattern of racketeering activity' (as defined in section 1961 of title 18, United States Code) or has been a knowing assister, abettor, conspirator, or colluder with others in any such illicit activity.

"(I) TRAFFICKING IN FIREARMS OR NUCLEAR OR EXPLOSIVE MATERIALS.—Any alien inadmissible if the consular officer or the Attorney General knows or has reason to believe that the alien is or has been engaged in illicit trafficking of firearms (as defined in section 921 of title 18, United States Code), nuclear materials (as defined in section 831 of title 18, United States Code), or explosive materials (as defined in section 841 of title 18, United States Code); or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit activity.".

(b) WAIVER AUTHORITY.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C. 1182) is amended, in the matter preceding paragraph (1)—

(1) by striking "The Attorney General" and all that follows through "of subsection (a)(2)" and inserting the following: "The Attorney General may, as a matter of discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2),"; and

(2) by inserting before "if—" the following: ", and subparagraph (H) of that subsection insofar as it relates to an offense other than an aggravated felony",

SEC. 303. CLARIFICATION OF INADMISSIBILITY OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF DRUG TRAFFICKERS.

Section 212(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(2)(C)) is amended to read as follows:

"(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien is inadmissible if the consular officer or the Attorney General knows or has reason to believe that the alien is or has been an illicit trafficker in any controlled substance or in any listed chemical or listed precursor chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical.".

SEC. 304. INADMISSIBILITY OF PERSONS INVOLVED IN INTERNATIONAL ALIEN SMUGGLING.

Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(6), by striking subparagraph (E) and inserting the following:

"(E) SMUGGLERS.—Any alien is inadmissible if, at any time, the alien has knowingly encouraged, induced, assisted, abetted, or aided any other alien—

"(i) to enter or try to enter the United States in violation of law; or

"(ii) to enter or try to enter any other country, if that alien knew or reasonably should have known that the entry or attempted entry was likely to be in furtherance of the entry or attempted entry by that alien into the United States in violation of law."; and

(2) in subsection (d)(11)—

(A) by striking "clause (i) of"; and

(B) by inserting "or to enter any other country in furtherance of an entry or attempted entry into the United States in violation of law" before the period at the end.

SEC. 305. SEIZURE OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

"(3)(A) If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in Rule 43(e), Federal Rules of Civil Procedure.

"(B) An application for a restraining order under subparagraph (A) shall—

"(i) set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture; and

"(ii) contain a statement that the restraining order is necessary to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.".

SEC. 306. ADMINISTRATIVE SUMMONS AUTHORITY UNDER THE BANK SECRECY ACT.

Section 5318(b) of title 31, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) for the purpose of—

"(A) determining compliance with the rules of this subchapter or any regulation issued under this subchapter; or

"(B) civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.), or any regulation issued under any such provision.".

SEC. 307. CRIMINAL AND CIVIL PENALTIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

(a) INCREASED CIVIL PENALTY.—Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)), is amended by striking "$10,000" and inserting "$50,000".

(b) INCREASED CRIMINAL FINE.—Section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)), is amended to read as follows:

"(b) Whoever willfully violates any license, order, or regulation issued under this chapter shall be fined not more than $1,000,000 if an organization (as defined in section 18 of title 18, United States Code), and not more than $250,000, imprisoned not more than 10 years, or both, if an individual.".

SEC. 308. ATTEMPTED VIOLATIONS OF THE TRADING WITH THE ENEMY ACT.

Section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) is amended—

(1) in subsection (a), by inserting "or attempt to violate" after "violate" each time it appears; and

(2) in subsection (b)(1), by inserting "or attempts to violate" after "violates".

TITLE IV—RESPONDING TO EMERGING INTERNATIONAL CRIME THREATS

SEC. 401. ENHANCED AUTHORITY TO INVESTIGATE COMPUTER FRAUD AND ATTACKS ON COMPUTER SYSTEMS.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting ", a felony violation of section 1030 (relating to computer fraud and attacks on computer systems)" before "section 1992 (relating to wrecking trains)".

SEC. 402. JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(g) JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.—Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b), shall be subject to the same penalties as if that offense had been committed in the United States, if the act—

"(1) involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

"(2) causes, or if completed would have caused, a transfer of funds from or a loss to an entity listed in paragraph (1).".

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TITLE V—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

SEC. 501. SHARING PROCEEDS OF JOINT FORFEITURE OPERATIONS WITH COOPERATING FOREIGN AGENCIES.

(a) IN GENERAL.—Section 981(i)(1) of title 18, United States Code, is amended by striking "this chapter" and inserting "any provision of Federal law".

(b) CONFORMING AMENDMENT.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended—

(1) in subparagraph (C), by adding "or" at the end;

(2) in subparagraph (D), by striking "; or" and inserting a period; and

(3) by striking subparagraph (E).

SEC. 502. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"§1790. Assistance to foreign authorities

"(a) IN GENERAL.—

"(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

"(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

"(B) the United States District Court for the District of Columbia.

"(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

"(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

"(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

"(2) administer any necessary oath; and

"(3) take testimony or statements and receive evidence and information.

"(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

"(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

"(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

"(d) TRANSFER OF REQUESTS.—

"(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

"(A) the inconvenience to the person is substantial; and

"(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

"(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

"1790. Assistance to foreign authorities.".

TITLE VI—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN UNITED STATES COURTS

SEC. 601. REIMBURSEMENT OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN INTERNATIONAL CRIME CASES.

The Attorney General may obligate, as necessary expenses, from any appropriate appropriation account available to the Department of Justice in fiscal year 1998 or any fiscal year thereafter, the cost of reimbursement to State or local law enforcement agencies for translation services and related expenses, including transportation expenses, in cases involving extradition or requests for mutual legal assistance from foreign governments.

SEC. 602. FACILITATING THE ADMISSION OF FOREIGN RECORDS IN UNITED STATES COURTS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"§2466. Foreign records

"(a) DEFINITIONS.—In this section:

"(1) BUSINESS.—The term 'business' includes business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit.

"(2) FOREIGN CERTIFICATION.—The term 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a record of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country.

"(3) FOREIGN RECORD OF REGULARLY CONDUCTED ACTIVITY.—The term 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country.

"(4) OFFICIAL REQUEST.—The term 'official request' means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibility, to a court or other authority of a foreign country.

"(b) FOREIGN RECORDS.—In a civil proceeding in a court of the United States, including civil forfeiture proceedings and proceedings in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity, or copy of the record, obtained pursuant to an official request, shall not be excluded as evidence by the hearsay rule if the foreign certification is obtained pursuant to subsection (c).

"(c) FOREIGN CERTIFICATION.—A foreign certification meeting the requirements of this subsection is a foreign certification, obtained pursuant to an official request, that adequately identifies the foreign record and attests that—

"(1) the record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(2) the record was kept in the course of a regularly conducted business activity;

"(3) the business activity made or kept such a record as a regular practice; and

"(4) if the record is not the original, the record is a duplicate of the original.

"(d) AUTHENTICATION.—A foreign certification under this section shall authenticate the record or duplicate.

"(e) CONSIDERATION OF MOTION.—

"(1) NOTICE.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

"(2) OPPOSING MOTION.—A motion opposing admission in evidence of the record under paragraph (1) shall be made by the opposing party and determined by the court before trial. Failure by a party to file that motion before trial shall constitute a waiver of objection to the record or duplicate, but the court for cause shown may grant relief from the waiver.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2466. Foreign records.".

SEC. 603. PROHIBITING FUGITIVES FROM BENEFITING FROM TIME SERVED ABROAD.

Section 3585 of title 18, United States Code, is amended by adding at the end the following:

"(c) EXCLUSION FOR TIME SERVED ABROAD.—Notwithstanding subsection (b), a defendant shall receive no credit for any time spent in official detention in a foreign country if—

"(1) the defendant fled from, or remained outside of, the United States to avoid prosecution or imprisonment;

"(2) the United States officially requested the return of the defendant to the United States for prosecution or imprisonment; and

"(3) the defendant is in custody in the foreign country pending surrender to the United States for prosecution or imprisonment.".

COMMENDING THE CREW MEMBERS OF THE U.S. NAVY DESTROYERS OF DESRON 61

Mr. CRAIG. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 308, introduced earlier today by Senators DODD and INOUYE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 308) commending the crew members of the U.S. Navy destroyers of Desron 61 for their heroism, intrepidity and skill in action in the only surface engagement occurring inside Tokyo Bay during World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I rise today to commend the crews of the

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