

“(a) PROHIBITION.—(1) Unless the requirements of paragraph (2) are met, the Secretary shall prescribe regulations to prohibit—

“(A) an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title; and

“(B) an individual who is regularly employed at a United States seaport or who is employed by a common carrier that transports merchandise to or from a United States seaport from entering a United States seaport.

“(2) The prohibition imposed under paragraph (1) may not apply to—

“(A) an individual who—

“(i) holds a transportation security card issued under this section; and

“(ii) is authorized to be in area in accordance with the plan if the individual is attempting to enter an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility approved by the Secretary under section 70103 of this title; or

“(B) an individual who is accompanied by another individual who may access the secure area or United States seaport in accordance with this section.

“(3) A person may not admit an individual into a United States seaport or a secure area unless the individual is in compliance with this subsection.”;

(2) in paragraph (2) of subsection (b)—

(A) in subparagraph (E), by striking “and”;

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

“(F) an individual who is regularly employed at a United States seaport or who is employed by a common carrier that transports merchandise to or from a United States seaport; and”;

(3) in paragraph (1) of subsection (c)—

(A) in subparagraph (C), by striking “or”;

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon and “or”;

(C) at the end, by inserting the following new subparagraph:

“(E) has not provided sufficient information to allow the Secretary to make the determinations described in subparagraph (A), (B), (C), or (D).”;

(4) by striking subsection (f); and

(5) by inserting after subsection (e) the following new subsections:

“(f) DATA ON CARDS.—A transportation security card issued under this section shall—

“(1) be tamper resistant; and

“(2) contain—

“(A) the number of the individual’s commercial driver’s license issued under chapter 313 of title 49, if any;

“(B) the State-issued vehicle registration number of any vehicle that the individual desires to bring into the United States seaport, if any;

“(C) the work permit number issued to the individual, if any;

“(D) a unique biometric identifier to identify the license holder; and

“(E) a safety rating assigned to the individual by the Secretary of Homeland Security.

“(g) DEFINITIONS.—In this section:

“(1) ALIEN.—The term ‘alien’ has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

“(2) UNITED STATES SEAPORT.—The term ‘United States seaport’ means a place in the United States on a waterway with shoreside facilities for the intermodal transfer of cargo

containers that are used in international trade.”.

SEC. 233. SECURING SENSITIVE INFORMATION.

(a) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Captain-of-the-Port of each United States seaport shall secure and protect all sensitive information, including information that is currently available to the public, related to the seaport.

(b) SENSITIVE INFORMATION.—In this section, the term “sensitive information” means—

(1) maps of the seaport;

(2) blueprints of structures located within the seaport; and

(3) any other information related to the security of the seaport that the Captain-of-the-Port determines is appropriate to secure and protect.

SEC. 234. CONTAINER SECURITY.

(a) CONTAINER SEALS.—

(1) APPROVAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall approve minimum standards for high security container seals that—

(A) meet or exceed the American Society for Testing Materials Level D seals;

(B) permit each seal to have a unique identification number; and

(C) contain an electronic tag that can be read electronically at a seaport.

(2) REQUIREMENT FOR USE.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall deny entry of a vessel into the United States if the containers carried by the vessel are not sealed with a high security container seal approved under paragraph (1).

(b) IDENTIFICATION NUMBER.—

(1) REQUIREMENT.—A shipment that is shipped to or from the United States either directly or via a foreign port shall have a designated universal transaction number.

(2) TRACKING.—The person responsible for the security of a container shall record the universal transaction number assigned to the shipment under paragraph (1), as well as any seal identification number on the container, at every port of entry and point at which the container is transferred from one conveyance to another conveyance.

(c) PILOT PROGRAM.—

(1) GRANTS.—The Secretary of Homeland Security is authorized to award grants to eligible entities to develop an improved seal for cargo containers that—

(A) permit the immediate detection of tampering with the seal;

(B) permit the immediate detection of tampering with the walls, ceiling, or floor of a container that indicates a person is attempting to improperly access the container; and

(C) transmit information regarding tampering with the seal, walls, ceiling, or floor of the container in real time to the appropriate authorities at a remote location.

(2) APPLICATION.—Each eligible entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(3) ELIGIBLE ENTITY.—In this subsection, the term “eligible entity” means any national laboratory, nonprofit private organization, institution of higher education, or other entity that the Secretary determines is eligible to receive a grant authorized by paragraph (1).

(d) EMPTY CONTAINERS.—

(1) CERTIFICATION.—The Secretary of Homeland Security shall prescribe in regulations requirements for certification of empty containers that are to be shipped to or from

the United States either directly or via a foreign port. Such regulations shall require that an empty container—

(A) be inspected and certified as empty prior to being loaded onto a vessel for transportation to a United States seaport; and

(B) be sealed with a high security container seal approved under subsection (a)(1) to enhance the security of United States seaports.

SEC. 235. OFFICE AND INSPECTION FACILITIES.

(a) OPERATIONAL SPACE IN SEAPORTS.—Each entity that owns or operates a United States seaport that receives cargo from a foreign country, whether governmental, quasi-governmental, or private, shall provide to the Directorate permanent office and inspection space within the seaport that is sufficient for the Directorate officers at the seaport to carry out their responsibilities. Such office and inspection space—

(1) shall be provided at no cost to the Directorate; and

(2) may be located outside the terminal area of the seaport.

(b) INSPECTION TECHNOLOGY.—The Secretary of Homeland Security shall maintain permanent inspection facilities that utilize available inspection technology in the space provided at each seaport pursuant to subsection (a).

SEC. 236. SECURITY GRANTS TO SEAPORTS.

(a) CRITERIA FOR AWARDED GRANTS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall use the proportion of the containerized imports that are received at a United States seaport as a factor to be considered when determining whether to select that seaport for award of a competitive grant for security.

(b) DEFINITIONS.—In this section:

(1) CONTAINERIZED IMPORTS.—The term “containerized imports” means the number of twenty-foot equivalent units of containerized imports that enter the United States annually through a United States seaport as estimated by the Bureau of Transportation Statistics of the Department of Transportation.

(2) COMPETITIVE GRANT FOR SECURITY.—The term “competitive grant for security” means a grant of Federal financial assistance that the Secretary of Homeland Security is authorized to award to a United States seaport for the purpose of enhancing security at the seaport, including a grant of funds appropriated under the heading “Maritime and Land Security” in title I of division I of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7).

TITLE III—AUTHORIZATION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General and the Secretary of Homeland Security such sums as are necessary to carry out this Act. Sums authorized to be appropriated under this section are authorized to remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 101—CALLING FOR THE PROSECUTION OF IRAQIS AND THEIR SUPPORTERS FOR WAR CRIMES, AND FOR OTHER PURPOSES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 101

Resolved, That it is the sense of the Senate that—

(1) the governments of the United States, the United Kingdom, and other nations comprising the coalition conducting Operation Iraqi Freedom should prosecute by trial by tribunal each person in the Government of Iraq, each person in the armed forces of Iraq, and any other person, regardless of nationality, who orders, directs, solicits, procures, coordinates, participates in, or supports acts in violation of the international law of armed conflict (including the aspects of such law known as the Hague and Geneva Conventions) that are directed at members of the armed forces of the coalition nations or at the people of Iraq or any other nation;

(2) in the determination of appropriate persons to be charged and tried by such tribunal on the basis of command responsibility for any violation, consideration should be given to identifying responsible persons throughout the full range of the chain command, and not only persons within formal chains of command of the government and armed forces of Iraq, but also persons integral to any informal link by which a person in the government of Iraq or the armed forces of Iraq, or any other person, directs paramilitary, political, or guerrilla forces;

(3) in the determination of appropriate persons to be charged and tried by such tribunal, consideration should also be given to identifying persons who use political position or mass media in any of the violations; and

(4) in the determination of the violations of the international law of armed conflict to be tried by the tribunal, particular attention should be given to acts in the nature of those that, as of the date of this resolution, have already been committed by Iraqi directed forces, such as—

(A) the abuse of places protected from military attack under international law, such as the use of mosques and hospitals as military headquarters or for other military purposes;

(B) the ruse by which Iraqi combatants wear civilian clothing instead of, or over, uniforms to conceal their status as combatants and, while so clothed, attack coalition forces;

(C) the ruse by which Iraqi combatants feign surrender to coalition forces to gain advantage used by the Iraqi combatants to attack personnel of the coalition forces;

(D) the use of civilians or other persons protected under international law as human shields for Iraqi combatants on the battlefield;

(E) assault, murder, kidnapping, or torture of civilians or other persons protected under international law in order to terrorize those persons or others or to prevent them from gaining the protection of coalition forces;

(F) abuse, torture, assault, or murder of personnel of coalition forces entitled to treatment as prisoners of war or of civilians entitled to a protected status under international law; and

(G) recruitment or encouragement of non-Iraqi foreign nationals to engage in violations of the international law of armed conflict.

Mr. SPECTER. Mr. President, I was alarmed over the past weekend to note the suicide bombing which was perpetrated on Saturday where four United States soldiers in the 3rd Infantry Division were murdered by a suicide car bomb, with a bomber driving a taxi filled with explosives to a highway checkpoint in central Iraq. This is the first such attack on American troops in this war, a war in which Iraqi forces have been accused of dressing as civil-

ians and employing so-called human shields.

In an interview which appeared on ABC Television on Sunday, March 30th, Deputy Prime Minister Tariq Aziz stated that this was to be the policy of Iraq. This statement was in response to a question by ABC News correspondent Richard Engel, a question related to the comment by the Vice President of Iraq the preceding day, Saturday, March 29th, and then again by a Defense Ministry spokesman on March 30th, that Iraq is "welcoming the use of [such] suicide attacks."

I am today introducing a resolution which condemns this practice as a war crime, to put the government of Iraq on notice that the United States, Great Britain, and coalition forces will be prosecuting these atrocities as war crimes. Human Rights Watch commented on this matter, condemned the act in a press release issued just today, saying: "Feigning civilian or non-combatant status to deceive the enemy is a violation of the laws of war. . . ."

On March 29, that is last Saturday, at a U.S. military roadblock near Najaf, an Iraqi noncommissioned officer, reportedly posing as a taxi driver, detonated a car bomb that killed him and four U.S. soldiers. Iraqi Vice President Taha Yassin Ramadan said in a Baghdad news conference that such attacks would become "routine military policy." The executive director of the Human Rights Watch, Mr. Kenneth Roth, said: "When combatants disguise themselves as civilians or surrendering soldiers, that is a serious violation of the laws of war. Any such blurring of the line between combatant and non-combatant puts all Iraqis at greater risk."

International law prohibits attacking, killing, injuring, capturing, or deceiving the enemy by resorting to what is called perfidy. A "perfidious attack" is one launched by combatants who have led opposing forces to believe that the attackers are really noncombatants. Acts of perfidy include pretending to be a civilian who cannot be attacked, or feigning surrender. Surrendering soldiers cannot be attacked, so it is perfidious to use that protected status to attack as the opposing forces let down their guard as they try to take the "surrendering" soldiers into custody.

Now, this technique, this tactic, has been sanctioned, as noted, at the highest level of the Iraqi government by the Vice President of Iraq and by Deputy Prime Minister Tariq Aziz. Minister Aziz has been the leading Iraqi spokesman for more than a decade, going back, actually, before the gulf war in 1991. When Minister Aziz speaks, there is no doubt that he is speaking at the highest level of the Iraqi government.

The Iraqi government awarded the suicide bomber two posthumous medals and the Vice President said the suicide attacks will become routine military policy in Iraq and in the United States

unless the Bush administration abandons the (then) 10-day-old war and pulls back its troops.

The interview by ABC TV news correspondent Richard Engel went on to question Deputy Prime Minister Aziz about the nature of such attacks in the future, and Minister Aziz commented: "There will be others. Iraqis, Arabs, maybe Muslims, yes. We welcome them."

Minister Aziz took pride in pointing out: "[T]he first one who did it was an Iraqi. He was not a foreigner."

It is my view that this is one of a series of acts by the Iraqi Government in violation of the laws of war itemized in the Hague and Geneva Conventions, and that more and varied types of atrocities may be expected by the desperate Iraqi Government.

That is why I have prepared today this resolution which calls upon:

. . . the governments of the United States, the United Kingdom, and other nations comprising the coalition conducting Operation Iraqi Freedom [to] prosecute by trial by tribunal each person in the Government of Iraq, each person in the armed forces of Iraq, and any other person, regardless of nationality, who orders, directs, solicits, procures, coordinates, participates in, or supports acts in violation of the international law of armed conflict (including the aspects of such law known as the Hague and Geneva Conventions)

The resolution specifies a series of circumstances where there is:

. . . abuse of places protected from military attack under international law, such as the use of mosques and hospitals as military headquarters or for other military purposes;

. . . the ruse by which Iraqi combatants wear civilian clothing instead of, or over, uniforms to conceal their status as combatants and, while so clothed, attack coalition forces;

. . . the ruse by which Iraqi combatants feign surrender to coalition forces to gain advantage used by the Iraqi combatants to attack personnel of the coalition forces;

. . . the use of civilians or other persons protected under international law as human shields for Iraqi combatants on the battlefield;

. . . assault, murder, kidnapping, or torture of civilians or other persons protected under international law in order to terrorize those persons or others or to prevent them from gaining the protection of coalition forces;

. . . abuse, torture, assault, or murder of personnel of coalition forces entitled to treatment as prisoners of war or of civilians entitled to a protected status under international law; and

. . . recruitment or encouragement of non-Iraqi foreign nationals to engage in violations of the international law of armed conflict.

We are saying what has occurred in Iraq today are the actions of a desperate nation.

I believe it is very important that the upper echelon of the Iraqi Government, people such as the Vice President, people such as Deputy Prime Minister Aziz, be put on notice that these acts in violation of The Hague and Geneva Conventions will be dealt with very forcefully by a tribunal which is yet to be established.

I do not specify at this time the kind of tribunal. That will require some further analysis. It could be a military tribunal to try those offenses where the victims are soldiers of the U.S. Army, or of the British Army, or soldiers of the coalition forces.

It might be an international tribunal such as that which was established for the former Yugoslavia, or Rwanda.

It is worth noting, and the Iraqi officials ought to be watching, what has happened at The Hague and what happened in Rwanda. The former head of state of Rwanda is now serving a life sentence—notwithstanding that he was the head of state of Rwanda—for crimes against humanity. In a well-publicized case, former Yugoslavian President Milosevic is now on trial in The Hague for violations of international law and crimes against humanity. Many have been sentenced for criminal conduct, for violations of international law in Bosnia and in Kosovo. So at this early stage I believe it is important that the word go out to the Iraqi high command and to those who follow orders of the Iraqi high command that they will be prosecuted as war criminals.

It is not a defense that someone says that he or she is operating under an order from a superior officer. In a very celebrated case in World War I, a German U-boat sank an Allied ship. As it went down, those in lifeboats were machinegunned by the submarine, which had surfaced. The perpetrator of the machinegunning entered a defense that the machinegunner was operating under superior's orders. That was soundly rejected. So the principle has been established as a matter of international law that it is no defense to say a person operates under superior's orders.

Of course, it is not a defense at all for ranking officials such as the Iraqi Vice President and the Iraqi Deputy Prime Minister, who know better, who are engaging in these violations of international law. Those who carry out the orders of these Iraqis ought to be on notice, too, that these matters will not be over when we win the war, when the war stops, because these individuals will be pursued in trials just as the head of state of Rwanda was pursued and is serving a life sentence; just as former President Milosevic is being pursued and prosecuted; as so many others are being pursued.

This word ought to go out in a very forceful way to the Iraqis that this conduct in violation of international law will not be tolerated.

In 1998 I introduced S. Con. Res. 78 calling for a war crimes tribunal to try Saddam Hussein as a war criminal. On March 13, 1998, that was passed unanimously, 93 to nothing, by the Senate. So there is a demonstrated interest on the part of this body in acting very forcefully to give notice to, not only Saddam Hussein, but other Iraqi officials and those who carry out their orders that they will be prosecuted as

war criminals if they continue to violate international law.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 31, 2003, at 4:00 p.m., in open session, to receive testimony on the U.S. Air Force investigation into allegations of sexual assault at the U.S. Air Force Academy and related recommendations.

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

COMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 31, 2003, at 2:00 p.m., in open session to receive testimony on the science and technology program and the role of Department of Defense laboratories in review of the Defense authorization request for fiscal year 2004.

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

HOUSE CONCURRENT RESOLUTION 95

The Senate passed H. Con. Res. 95 on Wednesday, March 26, 2003 as follows:

In the Senate of the United States, March 26, 2003.

Resolved, That the resolution from the House of Representatives (H. Con. Res. 95) entitled "Concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.", do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

(a) *DECLARATION*.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal years 2003 and 2004 including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013 as authorized by section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632).

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

Sec. 1. Concurrent resolution on the budget for fiscal year 2004.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.

Sec. 102. Social Security.

Sec. 103. Major functional categories.

Sec. 104. Reconciliation in the Senate.

TITLE II—BUDGET ENFORCEMENT AND RULEMAKING

Subtitle A—Budget Enforcement

Sec. 201. Extension of supermajority enforcement.

Sec. 202. Discretionary spending limits in the Senate.

Sec. 203. Restrictions on advance appropriations in the Senate.

Sec. 204. Emergency legislation.

Sec. 205. Pay-as-you-go point of order in the Senate.

Sec. 206. Sense of the Senate on liabilities and future costs

Subtitle B—Reserve Funds and Other Adjustments

Sec. 211. Adjustment for special education.

Sec. 212. Adjustment for highways and highway safety and transit.

Sec. 213. Reserve fund for medicare.

Sec. 214. Reserve fund for health insurance for the uninsured.

Sec. 215. Reserve fund for children with special needs.

Sec. 216. Reserve fund for medicaid reform.

Sec. 217. Reserve fund for project bioshield.

Sec. 218. Reserve fund for stateside grant program.

Sec. 219. Reserve fund for State children's health insurance program.

Subtitle C—Miscellaneous Provisions

Sec. 221. Adjustments to reflect changes in concepts and definitions.

Sec. 222. Application and effect of changes in allocations and aggregates.

Sec. 223. Exercise of rulemaking powers.

TITLE III—SENSE OF THE SENATE

Sec. 301. Sense of the Senate on Federal employee pay.

Sec. 302. Sense of the Senate on tribal colleges and universities.

Sec. 303. Sense of the Senate regarding the 504 small business credit program.

Sec. 304. Sense of the Senate regarding Pell Grants.

Sec. 305. Sense of the Senate regarding the National Guard.

Sec. 306. Sense of the Senate regarding weapons of mass destruction civil support teams.

Sec. 307. Sense of the Senate on emergency and disaster assistance for livestock and agriculture producers.

Sec. 308. Social Security restructuring.

Sec. 309. Sense of the Senate concerning State fiscal relief.

Sec. 310. Federal Agency Review Commission.

Sec. 311. Sense of the Senate regarding highway spending.

Sec. 312. Sense of the Senate concerning an expansion in health care coverage.

Sec. 313. Sense of the Senate on the State Criminal Alien Assistance Program.

Sec. 314. Sense of the Senate concerning programs of the Corps of Engineers.

Sec. 315. Radio interoperability for first responders.

Sec. 316. Sense of the Senate on corporate tax haven loopholes.

Sec. 317. Sense of Senate on phased-in concurrent receipt of retired pay and veterans' disability compensation for veterans with service-connected disabilities rated at 60 percent or higher.

Sec. 318. Sense of the Senate concerning Native American health.

Sec. 319. Reserve fund to strengthen social security.

Sec. 320. Sense of the Senate on providing tax and other incentives to revitalize rural America.

Sec. 321. Sense of the Senate concerning higher education affordability.

Sec. 322. Sense of the Senate concerning children's graduate medical education.

Sec. 323. Sense of the Senate on funding for criminal justice.

Sec. 324. Sense of the Senate concerning funding for drug treatment programs.

Sec. 325. Funding for after-school programs.

Sec. 326. Sense of the Senate on the \$1,000 child credit

Sec. 327. Sense of the Senate concerning funding for domestic nutrition assistance programs