

103^D CONGRESS
1ST SESSION

S. 1085

To abolish the United States Arms Control and Disarmament Agency and to transfer certain policy formulation functions of the Agency to the Department of State and certain non-proliferation and other functions of the Agency to the Department of Defense, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 7), 1993

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To abolish the United States Arms Control and Disarmament Agency and to transfer certain policy formulation functions of the Agency to the Department of State and certain non-proliferation and other functions of the Agency to the Department of Defense, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Economy in Arms Con-
5 trol Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) the initially created United States Arms
2 Control and Disarmament Agency (ACDA) in 1961
3 served a useful purpose that has been eclipsed due
4 to the end of the Cold War;

5 (2) numerous government agencies have ac-
6 quired the expertise, capabilities, and roles that were
7 originally intended for ACDA;

8 (3) the work that ACDA performs is duplicated
9 in the executive branch of Government and ACDA's
10 role is no longer essential for national security;

11 (4) with the pace of dynamic international
12 change, all government agencies involved in defense,
13 intelligence, and international broadcasting have
14 been reduced accordingly; and

15 (5) the orderly retirement of ACDA is a nec-
16 essary measure to maximize savings in annual gov-
17 ernment expenditures.

18 **SEC. 3. DEFINITIONS.**

19 For purposes of this Act, unless otherwise provided
20 or indicated by the context—

21 (1) the term “Federal agency” has the meaning
22 given to the term “agency” by section 551(1) of title
23 5, United States Code;

1 (2) the term “function” means any duty, obli-
2 gation, power, authority, responsibility, right, privi-
3 lege, activity, or program;

4 (3) the term “Secretary of Defense” means the
5 Secretary of Defense, acting through the Assistant
6 Secretary of Defense for Non-Proliferation Affairs;
7 and

8 (4) the term “ACDA” means the United States
9 Arms Control and Disarmament Agency.

10 **SEC. 4. ABOLISHMENT OF THE ACDA.**

11 (a) ABOLISHMENT.—The United States Arms Con-
12 trol and Disarmament Agency is abolished on the effective
13 date of this Act.

14 (b) REPEAL.—The Arms Control and Disarmament
15 Act (22 U.S.C. 2551 et seq.) is repealed on the effective
16 date of this Act.

17 **SEC. 5. TERMINATION OF FUNCTIONS.**

18 (a) TERMINATION OF FUNCTIONS.—All functions ex-
19 ercised by the Director of the ACDA, or exercised under
20 the authority of the Arms Control and Disarmament Act,
21 before the effective date of this Act other than the func-
22 tions described in section 6 shall terminate on such effec-
23 tive date.

24 (b) TREATMENT OF PERSONNEL EMPLOYED IN TER-
25 MINATED FUNCTIONS.—The following shall apply with re-

1 spect to officers and employees of the ACDA which were
2 not transferred under section 11:

3 (1) Under such regulations as the Office of Per-
4 sonnel Management may prescribe, the head of any
5 agency in the executive branch may appoint in the
6 competitive service any person who is certified by
7 the Director of the ACDA as having served satisfac-
8 torily in the ACDA and who passes such examina-
9 tion as the Office of Personnel Management may
10 prescribe. Any person so appointed shall, upon com-
11 pletion of the prescribed probationary period, ac-
12 quire a competitive status.

13 (2) The head of any agency in the executive
14 branch having an established merit system in the ex-
15 cepted service may appoint in such service any per-
16 son who is certified by the Director of the ACDA as
17 having served satisfactorily in the ACDA and who
18 passes such examination as such agency head may
19 prescribe.

20 (3) Any appointment under this subsection
21 shall be made within a period of one year after com-
22 pletion of the appointee's service in the ACDA.

23 (4) Any law, Executive order, or regulation
24 which would disqualify an applicant for appointment
25 in the competitive service or in the excepted service

1 concerned shall also disqualify an applicant for ap-
2 pointment under this subsection.

3 **SEC. 6. TRANSFER OF FUNCTIONS.**

4 (a) TRANSFER OF FUNCTIONS.—(1) There are trans-
5 ferred—

6 (A) to the Secretary of State, so much of the
7 functions which the Director of ACDA exercised be-
8 fore the effective date of this Act as relate to policy
9 formulation in connection with arms control and dis-
10 armament matters (including all related functions of
11 any officer or employee of the ACDA but not includ-
12 ing functions related to non-proliferation affairs);

13 (B) to the Secretary of Defense, so much of the
14 functions which the Director of ACDA exercised be-
15 fore the effective date of this Act as relate to non-
16 proliferation affairs; and

17 (C) to the Secretary of Defense, to be exercised
18 in consultation with the Director of Central Intel-
19 ligence, so much of the functions which the Director
20 of ACDA exercised before the effective date of this
21 Act as relate to the evaluation and reporting of the
22 effectiveness of arms control and disarmament
23 agreements with respect to the verification of com-
24 pliance with such agreements.

1 (2) The transferred functions shall be exercised con-
2 sistent with this section.

3 (b) AUTHORITY OF THE NATIONAL SECURITY COUN-
4 CIL.—Section 101(b) of the National Security Act of 1947
5 (50 U.S.C. 402(b)) is amended—

6 (1) by striking “and” at the end of paragraph
7 (1);

8 (2) by striking the period at the end of para-
9 graph (2) and inserting “; and”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(3) to serve as the principal adviser to the
13 President for the interagency coordination of United
14 States arms control and disarmament policy and for
15 monitoring the implementation of international arms
16 control and disarmament agreements and to estab-
17 lish procedures to carry out the duties described in
18 this paragraph.”.

19 (c) PROHIBITION.—No action shall be taken under
20 this or any other law that will obligate the United States
21 to disarm or to reduce or to limit the Armed Forces or
22 armaments of the United States, except pursuant to the
23 treaty-making power of the President under the Constitu-
24 tion or unless authorized by further affirmative legislation
25 by the Congress of the United States.

1 (d) ASSISTANT SECRETARY OF DEFENSE.—(1) Sec-
2 tion 136 of title 10, United States Code, is amended—

3 (A) in subsection (a), by striking out “eleven”
4 and inserting in lieu thereof “12”; and

5 (B) by adding at the end of subsection (b) the
6 following new paragraph:

7 “(5) One of the Assistant Secretaries shall be the As-
8 sistant Secretary of Defense for Non-Proliferation Affairs.
9 It shall be the principal duty of the Assistant Secretary
10 to coordinate Federal Government policy with respect to
11 the non-proliferation of conventional weapons and weap-
12 ons of mass destruction.”.

13 (2) Section 5315 of title 5, United States Code, is
14 amended by striking out “Assistant Secretaries of Defense
15 (11).” and inserting in lieu thereof the following:

16 “Assistant Secretaries of Defense (12).”.

17 **SEC. 7. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE**
18 **OFFICE OF MANAGEMENT AND BUDGET.**

19 If necessary, the Director of the Office of Manage-
20 ment and Budget shall make any determination of the
21 functions that are transferred under section 6(a).

22 **SEC. 8. PERSONNEL PROVISIONS.**

23 Subject to section 13, the Secretary of State and the
24 Secretary of Defense may appoint and fix the compensa-
25 tion of such officers and employees as may be necessary

1 to carry out the respective functions transferred under this
2 Act. Except as otherwise provided by law, such officers
3 and employees shall be appointed in accordance with the
4 civil service laws and their compensation fixed in accord-
5 ance with title 5, United States Code.

6 **SEC. 9. REORGANIZATION.**

7 The Secretary of State is authorized to allocate or
8 reallocate any function transferred under section 6(a)
9 among the officers of the Department of State and to es-
10 tablish, consolidate, alter, or discontinue such organiza-
11 tional entities in such Department as may be necessary
12 or appropriate.

13 **SEC. 10. RULES.**

14 The Secretary of State and the Secretary of Defense
15 are authorized to prescribe, in accordance with the provi-
16 sions of chapters 5 and 6 of title 5, United States Code,
17 such rules and regulations as such Secretary determines
18 necessary or appropriate to administer and manage the
19 functions of the Department of State or the Department
20 of Defense, as the case may be, which are transferred by
21 this Act.

22 **SEC. 11. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
23 **TIONS AND PERSONNEL.**

24 (a) IN GENERAL.—Subject to the limitations in sub-
25 section (b), the personnel employed in connection with,

1 and the assets, liabilities, contracts, property, records, and
2 unexpended balances of appropriations, authorizations, al-
3 locations, and other funds employed, used, held, arising
4 from, available to, or to be made available in connection
5 with the functions transferred by this Act, subject to sec-
6 tion 1531 of title 31, United States Code, shall be trans-
7 ferred to the Federal agency to which such functions are
8 transferred. Unexpended funds transferred pursuant to
9 this section shall be used only for the purposes for which
10 the funds were originally authorized and appropriated.

11 (b) LIMITATIONS.—(1) In carrying out the transfer
12 of personnel required by subsection (a), there are author-
13 ized to be transferred—

14 (A) with respect to the function transferred
15 under section 6(a)(1)(A), not to exceed 10 percent
16 of the personnel,

17 (B) with respect to the function transferred
18 under section 6(a)(1)(B), not to exceed 30 percent
19 of the personnel, and

20 (C) with respect to the function transferred
21 under section 6(a)(1)(C), not to exceed 30 percent
22 of the personnel,

23 employed or used in connection with that function as of
24 December 31, 1992.

1 (2) In making the transfer of personnel described in
2 paragraph (1), the President shall transfer such personnel
3 employed or used in connection with a function as the
4 President determines, notwithstanding any other provision
5 of law, are necessary to carry out that function.

6 **SEC. 12. INCIDENTAL TRANSFERS.**

7 The Director of the Office of Management and Budg-
8 et, at such time or times as the Director shall provide,
9 is authorized to make such determinations as may be nec-
10 essary with regard to the functions transferred by this
11 Act, and to make such additional incidental dispositions
12 of personnel, assets, liabilities, grants, contracts, property,
13 records, and unexpended balances of appropriations, au-
14 thorizations, allocations, and other funds held, used, aris-
15 ing from, available to, or to be made available in connec-
16 tion with such functions, as may be necessary to carry out
17 the provisions of this Act. The Director of the Office of
18 Management and Budget shall provide for the termination
19 of the affairs of the entity terminated by this Act and for
20 such further measures and dispositions as may be nec-
21 essary to effectuate the purposes of this Act.

22 **SEC. 13. EFFECT ON PERSONNEL.**

23 (a) IN GENERAL.—Except as otherwise provided by
24 this Act, the transfer pursuant to this Act of full-time per-
25 sonnel (except special Government employees) and part-

1 time personnel holding permanent positions shall not
2 cause any such employee to be separated or reduced in
3 grade or compensation for one year after the date of trans-
4 fer of such employee under this Act.

5 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as
6 otherwise provided in this Act, any person who, on the
7 day preceding the effective date of this Act, held a position
8 compensated in accordance with the Executive Schedule
9 prescribed in chapter 53 of title 5, United States Code,
10 and who, without a break in service, is appointed in the
11 Department of Defense to a position having duties com-
12 parable to the duties performed immediately preceding
13 such appointment shall continue to be compensated in
14 such new position at not less than the rate provided for
15 such previous position, for the duration of the service of
16 such person in such new position.

17 **SEC. 14. SAVINGS PROVISIONS.**

18 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
19 All orders, determinations, rules, regulations, permits,
20 agreements, grants, contracts, certificates, licenses, reg-
21 istrations, privileges, and other administrative actions—

22 (1) which have been issued, made, granted, or
23 allowed to become effective by the President, any
24 Federal agency or official thereof, or by a court of

1 competent jurisdiction, in the performance of func-
2 tions which are transferred under this Act, and

3 (2) which are in effect at the time this Act
4 takes effect, or were final before the effective date
5 of this Act and are to become effective on or after
6 the effective date of this Act,

7 shall continue in effect according to their terms until
8 modified, terminated, superseded, set aside, or revoked in
9 accordance with law by the President, the Secretary of
10 State, the Secretary of Defense, or other authorized offi-
11 cial, a court of competent jurisdiction, or by operation of
12 law.

13 (b) PROCEEDINGS NOT AFFECTED.—The provisions
14 of this Act shall not affect any proceedings, including no-
15 tices of proposed rulemaking, or any application for any
16 license, permit, certificate, or financial assistance pending
17 before the ACDA at the time this Act takes effect, with
18 respect to functions transferred by this Act but such pro-
19 ceedings and applications shall be continued. Orders shall
20 be issued in such proceedings, appeals shall be taken
21 therefrom, and payments shall be made pursuant to such
22 orders, as if this Act had not been enacted, and orders
23 issued in any such proceedings shall continue in effect
24 until modified, terminated, superseded, or revoked by a
25 duly authorized official, by a court of competent jurisdic-

1 tion, or by operation of law. Nothing in this subsection
2 shall be deemed to prohibit the discontinuance or modi-
3 fication of any such proceeding under the same terms and
4 conditions and to the same extent that such proceeding
5 could have been discontinued or modified if this Act had
6 not been enacted.

7 (c) SUITS NOT AFFECTED.—The provisions of this
8 Act shall not affect suits commenced before the effective
9 date of this Act, and in all such suits, proceedings shall
10 be had, appeals taken, and judgments rendered in the
11 same manner and with the same effect as if this Act had
12 not been enacted.

13 (d) NONABATEMENT OF ACTIONS.—No suit, action,
14 or other proceeding commenced by or against the ACDA,
15 or by or against any individual in the official capacity of
16 such individual as an officer of the ACDA, shall abate by
17 reason of the enactment of this Act.

18 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
19 MULGATION OF REGULATIONS.—Any administrative ac-
20 tion relating to the preparation or promulgation of a regu-
21 lation by the ACDA relating to a function transferred
22 under this Act may be continued by the Department of
23 State or the Department of Defense with the same effect
24 as if this Act had not been enacted.

1 **SEC. 15. SEPARABILITY.**

2 If a provision of this Act or its application to any
3 person or circumstance is held invalid, neither the remain-
4 der of this Act nor the application of the provision to other
5 persons or circumstances shall be affected.

6 **SEC. 16. TRANSITION.**

7 The Secretary of State and the Secretary of Defense
8 are authorized to utilize—

9 (1) the services of such officers, employees, and
10 other personnel of the ACDA with respect to func-
11 tions transferred to the Department of State or the
12 Department of Defense, as the case may be, by this
13 Act; and

14 (2) funds appropriated to such functions for
15 such period of time as may reasonably be needed to
16 facilitate the orderly implementation of this Act.

17 **SEC. 17. REFERENCES.**

18 (a) IN GENERAL.—Reference in any other Federal
19 law, Executive order, rule, regulation, or delegation of au-
20 thority, or any document of or relating to—

21 (1) the Director of the ACDA, or the ACDA,
22 with regard to functions transferred under section
23 6(a)(1)(A), shall be deemed to refer to the Secretary
24 of State or to the Department of State; and

25 (2) the Director of the ACDA, or the ACDA,
26 with regard to functions transferred under section

1 6(a)(1)(B) or section 6(a)(1)(C), shall be deemed to
2 refer to the Secretary of Defense or the Department
3 of Defense.

4 (b) INAPPLICABILITY OF CERTAIN PROVISIONS.—
5 Any reference in law to the ACDA or the Director of the
6 ACDA, other than the references described in subsection
7 (a), shall have no force or effect.

8 **SEC. 18. CONFORMING AMENDMENTS.**

9 (a) The Arms Export Control Act is amended—

10 (1) in section 36(b)(1)(D) (22 U.S.C.
11 2776(b)(1)(D)), by striking “Director of the Arms
12 Control and Disarmament Agency in consultation
13 with the Secretary of State and” and inserting “Sec-
14 retary of State in consultation with”;

15 (2) in section 38(a)(2) (22 U.S.C. 2778(a)(2)),
16 by striking “Director of the Arms Control and Dis-
17 armament Agency and shall take into account the
18 Director’s” and inserting “Secretary of State and
19 shall take into account the Secretary’s”; and

20 (3) in section 42(a) (22 U.S.C. 2791(a)), by
21 striking “Director of the United States Arms Con-
22 trol and Disarmament Agency, the Director’s” and
23 inserting “Secretary of State, the Secretary’s”.

24 (b) Section 1706(b) of the United States Institute of
25 Peace Act (22 U.S.C. 4605(b)) is amended—

1 (1) by striking out paragraph (3);

2 (2) by redesignating paragraphs (4) and (5) as
3 paragraphs (3) and (4), respectively; and

4 (3) in paragraph (4) (as redesignated by para-
5 graph (2)), by striking “Eleven” and inserting
6 “Twelve”.

7 (c) The Atomic Energy Act of 1954 is amended—

8 (1) in section 57 b. (42 U.S.C. 2077(b))—

9 (A) in the first sentence, by striking “the
10 Arms Control and Disarmament Agency,”, and

11 (B) in the second sentence, by striking
12 “the Director of the Arms Control and Disar-
13 mament Agency,”, and

14 (2) in section 123 (42 U.S.C. 2153)—

15 (A) in subsection a. (in the text below
16 paragraph (9))—

17 (i) by striking “and in consultation
18 with the Director of the Arms Control and
19 Disarmament Agency (‘the Director’), and

20 (ii) by striking “and the Director”
21 and inserting “and the Secretary of De-
22 fense”,

23 (B) in subsection d., in the first proviso, by
24 striking “Director of the Arms Control and Dis-

1 armament Agency” and inserting “Secretary of
2 Defense”, and

3 (C) in the first undesignated paragraph
4 following subsection d., by striking “the Arms
5 Control and Disarmament Agency,”.

6 (d) The Nuclear Non-Proliferation Act of 1978 is
7 amended—

8 (1) in section 4, by striking paragraph (2);

9 (2) in section 102, by striking “the Secretary of
10 State, and the Director of the Arms Control and
11 Disarmament Agency” and inserting “and the Sec-
12 retary of State”; and

13 (3) in section 602(c), by striking “the Arms
14 Control and Disarmament Agency,”.

15 (e) Title 5, United States Code, is amended—

16 (1) in section 5313, by striking “Director of the
17 United States Arms Control and Disarmament
18 Agency.”,

19 (2) in section 5314, by striking “Deputy Direc-
20 tor of the United States Arms Control and Disar-
21 mament Agency.”, and

22 (3) in section 5315, by striking “Assistant Di-
23 rectors, United States Arms Control and Disar-
24 mament Agency (4).”.

1 **SEC. 19. EFFECTIVE DATE.**

2 This Act shall take effect 1 year from its date of en-
3 actment.

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