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TERRORISM: U.S. POLICY OPTIONS

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TERRORISM: U.S. POLICY OPTIONS

SUMMARY

The United States maintains that international terrorism is a global problem and that the countries threatened by it should join together to combat it. Most other countries, however, including U.S. allies in the European Community (EC), are opposed to international sanctions -- as suggested by the United States -- and would prefer to treat terrorism as a domestic problem and handle it with their own resources.

U.S. efforts to get others to cooperate in this regard were set back by recent disclosures about secret U.S. negotiations with Iran. President Reagan had taken a particularly strong stand against terrorism and the Iran affair has apparently damaged his creditability and raised doubts among the allies about future U.S. policy against terrorism. Allies particularly resented the fact that they had been under pressure from the United States to take a harder line against Iran and other countries even while the secret negotiations were going on for the release of American hostages in Lebanon.

This issue brief describes U.S. policy against terrorism, how it has evolved, and the range of diplomatic, political, and military options available to help carry it out. Reasons are suggested for taking the multinational stand against terrorist countries and areas of possible cooperation are suggested. The analysis also takes into account the role of Congress in the overall formulation and conduct of U.S. policy against international terrorism.

ISSUE DEFINITION

U.S. policy against terrorism has remained relatively unchanged since 1972 when it was set forth and a counterterrorism office established by President Nixon after the massacre of Israeli athletes at the Munich Olympics. The policy was then and continues to be marked by its unequivocal stand against terrorism and determination not to bargain with terrorists. Subsequent Presidents have reiterated the policy and steadily improved the organization structure for carrying it out. President Reagan took a particularly hard stand against terrorism and the states that support it, so that, when it was revealed in November 1987 that the Administration had been selling arms to Iran, allegedly in exchange for U.S. hostages in Lebanon, the action appeared to contradict official policy. This issue brief examines U.S. policy against terrorism, the structural organization for implementing it and options available to the United States for enforcing it.

BACKGROUND AND ANALYSIS

Current U.S. Policy Against Terrorism

-- The U.S. Government is opposed to domestic and international terrorism and is prepared to act in concert with other nations or unilaterally when necessary to prevent or respond to terrorist acts.

-- The U.S. Government considers the practice of terrorism by any person or group a threat to its national security and will resist the use of terrorism by all legal means available.

-- States that practice terrorism or actively support it will not do so without consequence. If there is evidence that a state is mounting or intends to conduct an act of terrorism against this country, the United States will take measures to protect its citizens, property, and interests.

-- The United States will make no concessions to terrorists. It will not pay ransoms, release prisoners, change its policies, or agree to other acts that might encourage additional terrorism. At the same time, the United States will use every available resource to gain the safe return of American citizens who are held hostage by terrorists.

-- The United States will act in a strong manner against terrorists without surrendering basic freedoms or endangering democratic principles, and encourages other governments to take the same stands.

(Quoted from page 7 of the public report of the Vice President's task force on combatting terrorism, February 1986, hereafter referred to as the Vice President's report).

Organization for Combatting Terrorism

The present organization for implementing U.S. policy against terrorism got its start when President Nixon established a Cabinet-level committee, chaired by the Secretary of State in 1972.

President Carter transferred the responsibility to the National Security Council and established a supporting 10-member senior-level Interagency Executive Committee on Terrorism which eventually evolved into a group of more than 30 governmental organizations.

During the Reagan Administration, an organizational structure for crisis management was established with a group chaired by the Vice President and supported by appropriate interagency working groups. Responsibility for coordinating the Federal response to terrorist incidents is delegated along the Lead Agency concept:

- Department of State -- incidents that take place outside U.S. territory.
- Department of Justice -- incidents that take place within U.S. territory.
- Federal Aviation Administration (FAA) -- incidents aboard aircraft that take place within the jurisdiction of the United States (according to a State Department official, the FAA takes over from State when the door closes on the aircraft).

Not all countries agree with the U.S. assessment, however, and they have been slow to act on requests that they join with the United States in exerting pressure on countries suspected of harboring and abetting terrorists.

President Reagan set the tone for a stronger stand against terrorists soon after taking office when he welcomed home released American hostages from Iran on Jan. 28, 1981. The President said, "Let terrorists be aware that when the rules of international behavior are violated, our policy will be one of swift and effective retribution." In reference to governments that engage in, or actively support, acts of terrorism against the United States, the President threatened that they could expect a "rapid and certain response."

According to press reports, there have been sharp differences among the President's closest advisors about how to respond to terrorists once the crime has been committed, recognizing that clear knowledge of participants' identity and state support are often absent. Secretary of State Shultz, for example, advocated strong retaliation against terrorists and any country that supported them, while Secretary of Defense Weinberger has usually urged restraint.

From 1976 through 1986, more than 6,000 terrorist incidents occurred worldwide, leaving nearly 5,000 people dead and 8,000 wounded; American casualties totaled 391 dead and 552 injured. In 1986, the total number of international terrorist incidents levelled off slightly following

increases of 30% in 1984 and 45% in 1985. The State Department released data showing more than 800 incidents of international terrorism in 1985, resulting in 2,223 casualties, of which 23 of the killed and 139 of the injured were Americans, the worst year thus far for the United States. Terrorists singled out Americans for death in four of the most dramatic attacks: the prolonged TWA 847 hijacking in June 1985, the Achille Lauro hijacking in October, the November hijacking of the Egyptian airliner in Malta, and the December massacres at the Rome and Vienna airports by the Abu Nidal group; supported recently by Libya. In the hijacking of the Egyptian airliner, American women were singled out for killing for the first time. (See Issue Brief 86096 for a chronology of reported incidents against U.S. citizens and property during the period 1981-1986.)

The President's decision to take stronger action against terrorists who harm the United States or its citizens was reported to be contained in the secret national Security Decision Directive 138 which the President signed on Apr. 3, 1984. It signaled a transition to a more active response to terrorism.

U.S. Government Organization Against Terrorism

The chain of command on antiterrorism planning runs from the President through the National Security Council and a Senior Interdepartmental Group (IG) on Terrorism. This group is chaired by the State Department, (the Director of the Office for Counterterrorism and Emergency Planning), with representatives from Justice, Defense, Energy, Treasury, Transportation, CIA, National Security Council, FBI, and the Office of the Vice President. The IG meets regularly to discuss policy formulation and operations coordination in such matters as airport security, contingency planning and exercises, incident management, training, and international initiatives.

Intelligence information among the various agencies is coordinated by an Intelligence Committee, chaired by the CIA with representatives from DOD, NSC, FBI, the Secret Service, and the National Security Agency. There is also a top level Special Situation Group, headed by the Vice President, which has been established to handle crisis management. Other members of this group are the Secretary of State, the Secretary of Defense, the Counselor to the President, the Director of Central Intelligence, the Chief and Deputy Chief to the President, the Assistant to the President for National Security Affairs, the Joint Chiefs of Staff, and other personnel as required.

As the lead agency within the Government in the campaign against terrorism the State Department established a Bureau for Diplomatic Security under an Assistant Secretary that has overall responsibility for security of U.S. citizens and facilities overseas. The Bureau includes the Diplomatic Security Service which has initiated a massive, multiyear program to strengthen the security of embassies and foreign service personnel worldwide. The new Bureau will be largely responsible for overseeing a massive diplomatic security enhancement program overseas with funds approved under the "Omnibus Diplomatic Security and Anti-Terrorism Act of 1986" (P.L. 99-399).

Specific Programs Against Terrorism

Developed by several State Department-sponsored advisory panels, a program is in place to ascertain that all Foreign Service posts now have adequate contingency plans for dealing with terrorist incidents, including hostage and hijack attempts. Ambassadors have been instructed to review their internal defense plans, particularly command and control procedures for the use of lethal force, and to work out special coordination and mutual help procedures with our closest allies. All missions have been authorized to inform host governments of U.S. policy in hostage events and to urge them to adopt similar stances.

The State Department has also instituted an expanded course on "Coping with Violence Abroad." This course includes segments on hostage survival, bomb recognition, and residential security, among other topics. It is required for all State, Agency for International Development, and U.S. Information Agency personnel assigned overseas. The Department has also conducted a number of domestic and international incident-management exercises designed to test its ability to respond to terrorist attacks.

The State Department has also negotiated several international conventions designed to increase international cooperation against terrorism. These are to punish crimes against internationally protected persons (defined essentially as heads of state and diplomats); punishment of aircraft hijacking and sabotage; the prosecution of hostage takers and the physical protection of nuclear material. The Senate has given its advice and consent for the ratification of two conventions already signed by the United States: the International Convention Against the Taking of Hostages and the Convention on the Physical Protection of Nuclear Material. Congress also has passed legislation implementing the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and the International Convention Against the Taking of Hostages.

States Sponsoring Terrorism

The Secretary of Commerce in consultation with the Secretary of State has compiled a list of countries that support international terrorism under the provisions of section 6(i) of the Export Administration Act of 1979, as amended. There are five countries on the list: Libya, the People's Democratic Republic of Yemen (PDRY), Syria, Iran, and Cuba. Another list is contained in a speech by President Reagan before the American Bar Association on July 8, 1985. The President also listed Iran and Libya and Cuba, but added two others: North Korea and Nicaragua.

Libya

The State Department has singled out Libya as the most flagrant sponsor of terrorists and user of terrorism as government policy. (See IB 86040, Libya: U.S. Relations.) Despite Libyan leader Qadhafi's repeated denials that his government resorts to terrorism as an official practice, it is generally accepted that he has done so on a rather wide scale. Libya is believed to have provided aid to almost every major international

terrorist group, from the Provisional Irish Republican Army (PIRA) to the Popular Front for the Liberation of Palestine (PFLP). Press reports have also linked Libya to the Basque ETA, Japan's Red Army, Italy's Red Brigade, and Moslem insurgents in Thailand, Indonesia, Malaysia, and the Philippines.

In this regard, the CIA has long held that it had evidence that Qadhafi was providing money, weapons, and training to terrorists operating in many countries and has been a haven for fleeing terrorists, including some of the slayers of the Israeli Olympic athletes at Munich in 1972.

The principal targets of Libyan-supported terrorism are Israel, traditional and moderate Arab regimes, Libyan exiles critical of the Qadhafi regime, and more recently, the United States. In July 1984, Egypt almost certainly was the target of mines laid in the Red Sea near the entrance to the Suez Canal. Most agree with the generally held conviction that a Libyan ship planted the devices, which damaged 18 vessels registered to many nations. Libyan complicity in terrorist attacks was further exposed when the Egyptians arrested four conspirators before they could carry out a plot to murder a former Libyan Prime Minister living in Egypt, and then tricked the Libyan government into believing that the assassination had succeeded and claiming credit for the action. In 1984, Libyan supporters of the government fired upon anti-Qadhafi demonstrators from within the Libyan Embassy in London, killing a British policewoman on duty outside. According to State Department records, there were 17 separate terrorist incidents in 1985 and 1986 directly linked to Libya in Europe and the Middle East in which 14 Americans were killed.

When President Reagan decided to take military actions against Libya in March and April 1986, the President reportedly revealed extremely sensitive intelligence to friendly European leaders detailing Libya's connection with terrorist attacks on Americans. It is not clear from public sources whether the allies were convinced by the evidence, but Deputy Secretary of State John Whitehead told the House Committee on Foreign Affairs on Apr. 22, 1986, that he believed that our strike on Libya may have helped open a new chapter in multilateral cooperation between European states and the United States. Whitehead said that the sensitive nature of the information prevented his telling the committee in open session of the extent of cooperation between the European allies and the United States in sharing information regarding terrorism.

The number of terrorist incidents connected with Libya has dropped noticeably since the bombing by the United States, but the drop may also be the result of sanctions imposed by the European Community (EC) after the raids.

South Yemen

The Peoples Democratic Republic of Yemen (PDRY), also known as South Yemen, has apparently cut back on connections with international terrorists, but Yemen continues to provide camps and other facilities for a number of leftist groups. According to the CIA: "the Popular Front for the Liberation of Palestine (PFLP) maintains a major terrorist training camp there, and members of many different terrorist groups have all

benefited from the PFLP training facilities" (U.S. Department of State. Patterns of Global Terrorism: 1985, p. 6)

Syria

It is generally believed within the western community that Syria has used terrorists to advance its own interests. The Assad government in Damascus is widely believed to have been behind the assassinations of political leaders in Lebanon and at least implicated in the terrorist attacks on Americans there. Syria has also been an active supporter of radical elements within the PLO, including the Popular Front for the Liberation of Palestine (PFLP), which occasionally engages in terrorist activity. Syrian intelligence agents and diplomats have been linked to terrorist attacks on Jordanian officials as well as Syrian dissidents living abroad. Abu Nidal, leader of a radical Palestinian terrorist group, has been reported to have been sponsored by Syria before switching to an association with Libya. The media also reported that Italian investigators found evidence of direct Syrian involvement in the attacks on the Rome and Vienna airports in December 1985 and Great Britain determined in a court action that the Syrian government was behind the plot to put a bomb aboard an El-Al (Israeli) passenger plane leaving a Lenden airport in January 1986.

Iran

Prior to the recent upsurge in Libyan terrorist activities, the Department of State considered Iran "the leading supporter of terrorism." The Administration claims to have evidence that Iranian government officials have directly carried out armed attacks on Iraqi Embassies and assassinated Iraqi citizens in various countries. Media reports also connect the bombings of the U.S. Embassy in Beirut, Apr. 18, 1983, and the Marine headquarters building near the Beirut airport Oct. 23, 1983, to Iranian officials. There are reports in the press that Iran is building a terrorist infrastructure in the region by providing political indoctrination, military training, and financial help to dissident Shia groups in neighboring countries, including Kuwait, Bahrain, and Saudi Arabia.

Cuba

Fidel Castro's government has long been suspected of providing arms and training to terrorist organizations. As a result of Castro's support for the Colombian M-19 guerrilla group, which routinely uses terrorist tactics, Cuba was added to the U.S. list of countries supporting international terrorism.

North Korea

President Reagan in his July speech accused North Korea of violence against the United States and South Korea. He said that American planes have been shot down and U.S. servicemen murdered by North Korean forces. He also pointed out that four members of the South Korean national cabinet were blown up in a bombing in Burma by North Korean terrorists in October 1983 in a failed attempt to assassinate South Korean President Chun.

President Reagan also described North Korea's terrorist activities in Sri Lanka and its secret arms agreement with the former Communist government in Grenada.

Nicaragua

President Reagan also included Nicaragua on his list for its alleged terrorist activities in El Salvador, Costa Rica, and Honduras and the killing of four U.S. servicemen in El Salvador in 1985. The President also said that Nicaragua was providing refuge for known terrorist organizations such as the Italian Red Brigades, the Baader-Meinhoff gang from West Germany, the IRA (Irish Republican Army), the PLO, and others.

Options for Combating International Terrorism

Diplomacy

There is a range of diplomatic actions that can be taken against a government suspected of sponsoring terrorist actions. Certainly, the strongest action would be to withdraw recognition from the country or its government. Withdrawal of recognition would mean, in effect, that the government in question has no legal standing in the eyes of the United States and thus not entitled to certain rights under U.S. law.

A less severe action would be to break relations with the government and cause it to close its Embassy in the United States. Closure of its Embassy and consular posts is often followed by the severance of trade with the United States.

The United States could also expel a number of diplomats from a country's delegation in this country. Libyan diplomats were expelled from the United States in December 1985, prior to the use of force by the United States in April 1986. Since the raid, our west European allies have expelled a number of Libyan diplomats from their countries and have served notice on Libya that its disruptive behavior will not be tolerated in the future. The United States could also curtail or suspend the training of that country's students in the United States or deport the students as long as the action was consistent with U.S. law and civil liberties were protected.

Again, as long as it is consistent with our own law, the United States could threaten to deny entry to the citizens and/or representatives of institutions of any country that uses terrorist tactics. It could, for example, restrict air landing rights and port access to those countries within the limits of international agreements and regulations. In 1978, the United States joined with West Germany, Canada, Britain, France, Italy, and Japan in declaring a willingness to suspend commercial airline service between any of those countries and any country harboring hijackers. In 1981, some countries gave notice to Afghanistan that it faced sanctions due to the harboring of the hijackers of a Pakistani International Airlines plane.

The United States might also use its foreign broadcasting capabilities to pressure the other country directly or in an effort to arouse world opinion against the country using terrorist tactics. These broadcasts could be directed to the people inside the country, warning that continuation of the pro-terrorist policies might result in retaliation by the United States, or perhaps to other countries to urge isolation of the offending government.

In certain cases an appeal to the United Nations might be effective, but the members have been reluctant to take sides in these matters because of political or economic connections or because they fear reprisals. There is also a bias held by many less developed countries against the United States and other industrialized nations who are most targeted by terrorists.

Whether a certain policy will work against terrorism will often depend on the case-specific circumstances. Some argue that diplomacy holds little hope of success against determined terrorists or the countries that support them, but diplomatic measures are usually the least dangerous in terms of widening the conflict, and therefore are usually tried first.

Economic Sanctions

Economic sanctions designed to exert political pressure on another country almost always require the cooperation of other countries to make them effective. With that limitation, the United States has a wide range of economic sanctions that can be used against a country supporting terrorism or not taking adequate measures against it. Broadly speaking, these fall into six categories: restrictions on trading, technology transfer, foreign assistance, export credits and guarantees, foreign exchange and capital transactions, and economic access.

The United States might put any or all of these into effect by means of a total or partial trade embargo, embargo on financial transactions, suspension of foreign aid, restrictions on aircraft or ship traffic, or abrogation of a friendship, commerce, and navigation treaty, as was done against Nicaragua effective May 1, 1986.

Though not a matter of government policy, the sharp decline of American tourism in Europe owing to terrorist threat clearly exerted pressure on governments in Europe to curtail terrorist activity more effectively.

The President has a variety of laws at his disposal to put these actions in effect, but the broadest in its potential scope is the International Emergency Economic Powers Act. Under the terms of the Act, restrictions affecting every type of economic relations can be imposed once the President has declared a national emergency because of a threat to the national security, foreign policy, or economy of the United States. While the sanctions imposed must deal directly with the threat which was the reason for declaring the emergency, the President can regulate imports and exports and all types of financial transactions, such as the transfer

of funds, foreign exchange, credit, and securities between the United States and the country in question.

Embargoes on virtually all trade and many other economic transactions have been in force, primarily under this law, against Nicaragua since May 7, 1985, and Libya since Jan. 7, 1986. A comprehensive embargo in virtually all economic transactions with Iran, including blocking of Iranian property, was put into force in stages between November 1979 and April 1980, but lifted on Jan. 19, 1981.

Specific authority for the Libyan trade embargo is contained in sec. 503 of the International Trade and Security Act of 1985, while sec. 505 of the same Act authorizes the banning of imports of goods and services from any country supporting terrorism.

Two other major laws that can be used against countries sponsoring terrorism are the Export Administration Act and the Arms Control Export Act. The Export Administration Act provides basic authority to the President to prohibit exports of any or all commodities, if the denial of their export would further U.S. foreign policy. It also authorizes the President to prohibit or curtail the export of critical technology or other technological data if such action would further U.S. foreign policy. U.S. sales of technology, particularly very high technology processes, have been considerable, and restrictions or prohibitions of such sales are known to have put pressure on states reluctant to control terrorism. Under this Act, exports of various sensitive articles to Iran, Libya, South Yemen, and Syria are strictly controlled or prohibited because of their support of terrorism.

The other major Act, the Arms Export Control Act of 1976, authorizes the President to restrict the sale of defense articles and restrict or suspend services to states fostering terrorism.

Other economic laws allow more specific actions against countries supporting terrorism. The Foreign Assistance Act of 1961, which in sec. 6(i) prohibits the Administration from giving aid to countries that employ terrorism, would deny development assistance funds, food aid, and often economic or military assistance to such countries.

There is also the possibility of working through multinational organizations, such as the World Bank or the International Monetary Fund (IMF). The United States cannot, on its own, vote down any specific action under consideration by these bodies, but it can influence decisions in other ways against countries supporting terrorism. Administrative actions alone can deny terrorist-supporting countries access to the export credit facilities of the Export-Import Bank and the Commodity Credit Corporation.

Viewed as a whole, the success or failure of economic sanctions hinge on a number of related considerations:

First, economic actions do not take place in a vacuum; they have political implications, both domestically and internationally.

Second, any program of economic sanctions is going to have three types of costs -- costs to the world economic system, to the target country, and to the country that is applying the sanctions. In some past instances, U.S. producers were seemingly hurt more than the target country or its citizens.

Third, it matters whether there is a ready substitute for the item(s) being embargoed. If the goods or services that are being withheld can be readily replaced -- or new sources found -- then economic measures seeking to influence behavior are not likely to be successful.

Fourth, any program of sanctions takes careful planning and execution, whether it is to be unilateral or multilateral. Market forces will tend to greatly enhance the rewards of embargo evasion. A strong domestic consensus in favor of such a program is desirable if there are going to be considerable economic costs.

Media Self-Restraint

Publicity is often one of the main considerations in the decision to commit a terrorist act. It does little good for a terrorist to carry out an operation and not have it noticed, and operations are usually planned around the availability of such coverage. For this reason, terrorists generally select actions with high visibility, including: aircraft hijackings, the assassination or kidnapping of diplomats, or other symbolic figures, bombings, and, more recently, attacks on embassies and businesses abroad. Terrorists in Iran paraded their American hostages and staged a drama for worldwide media coverage to embarrass the United States and promote their cause of Islamic fundamentalism; they filmed the hostages and sold the tapes to television networks anxious to broadcast the hostage drama. Terrorists also exploited the media's handling of the crisis surrounding the seizure of TWA flight 847 in June 1985.

The role of the media in such cases is a matter of judgment and balance between First Amendment rights, the media's responsibility to inform the public, and the avoidance of giving the terrorist important benefits and advantages. It might be possible for the press to agree on guidelines that would govern its behavior while a crisis is going on. The public has a right to know, but what if the safety of hostages is thereby threatened? Can some information wait till the emergency is ended? What if information on government countermeasures (or lack of them) is tactically helpful to the terrorists?

Congress is limited in its direct role in these matters, but some have suggested passing legislation that would encourage voluntary media constraints. Standards established by the Chicago Sun-Times and Daily News for the coverage of terrorism include paraphrasing terrorist demands to avoid unbridled propaganda; banning the participation of reporters in negotiations with terrorists; coordinating coverage through supervising editors who are in contact with police authorities; providing thoughtful, restrained, and credible coverage of stories; and allowing only senior supervisory editors to determine what -- if any -- information should be withheld or deferred. Similar guidelines adopted by the media in general might begin to discourage terrorists seeking a propaganda platform in the

United States. Competitive pressures would clearly work against this option.

Cooperation in Law Enforcement

It is generally recognized that international cooperation is critical in such areas as: police enforcement, customs control, intelligence activities, etc., and has presumably been going on for some time on a low key basis. (See IB85162: Foreign Airport Security: Diplomatic Framework and U.S. Policy.)

However, countries have different definitions of terrorism and different views on how to combat it. Most make exceptions when crimes are committed for political motives. This complicates agreements governing extradition of terrorists from one country to another when necessary to bring them to trail.

Some have proposed that Congress consider further relaxing laws that prohibit the use of foreign assistance funds to train and equip foreign police forces. It might be possible to do this when the goal is to combat terrorism and there is no substantial threat to civil rights in the other country. Congress made a move in this direction when it appropriated more than \$7 million in FY86 to furnish assistance to certain countries to train law enforcement personnel to deter terrorists from engaging in acts such as bombing, kidnapping, assassinations, hostage-taking, and hijacking. The training may include bomb detection and disposal, the management of hostage situations, physical security, and other matters related to detection, deterrence, and prevention of acts of terrorism.

International Conventions

The International Convention Against the Taking of Hostages was signed in December 1979 and referred to the Senate for advice and consent. The resolution advising ratification was adopted unanimously on July 30, 1981, and implementing legislation was passed in 1984. The convention imposes binding legal obligations on states either to extradite or submit to their competent authorities for prosecution alleged hostage-takers found within their jurisdiction. A state must comply with this obligation without regard to where the alleged hostage-taking was committed.

The Convention on the Physical Protection of Nuclear Material was ratified in 1980 and also implemented in 1984. This convention requires that those who commit serious offenses involving nuclear material be punished. It also provides for an increased measure of international cooperation in providing security for nuclear material.

The Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation was ratified by the United States in 1972. Implementing legislation was passed only in 1984.

The heads of state of the seven economic summit partners jointly agreed in July 1978 in the "Bonn Declaration" that in cases where a country refuses extradition or prosecution of aircraft hijackers, their governments both would cease all flights to that country and would

initiate action to halt all incoming flights from that country. Although not fully tested through implementation, the accord represents the first multilateral effort to develop enforcement measures for use against countries that refuse to extradite or prosecute hijackers. The United States might seek to have the Bonn Declaration formalized under the United Nations, allowing other nations to participate.

Again at the conclusion of the economic summit of 1984, the leaders issued a Declaration calling for closer cooperation and coordination between national security organizations, the review of weapons sales to countries supporting terrorism, and tighter regulations affecting diplomatic immunity -- the last arising from the use of such immunity as a cover by terrorists.

Covert and Paramilitary Operations

Some have advocated a more aggressive program of covert penetration of terrorist groups and the use of counter force tactics such as intimidation and assassination.

There would be objections to these kinds of operations because they would likely exceed the limits placed on the authority and responsibilities of the Central Intelligence Agency and other U.S. intelligence agencies. The role, if any, of the military services in paramilitary programs would remain to be decided and designed.

Covert operations are also dangerous in that they could get the United States involved more deeply than intended and risk a confrontation with another government, even a friendly one. It could also renew criticism of U.S. intelligence agencies, just when resentment over past covert operations is receding.

The Use of Military Force

Arguments for the use of military force usually emphasize the military's unique skills and specialized equipment. If negotiations fail and the lives of hostages or other bystanders would be further endangered by waiting, some will argue that a quick strike by a trained military force is a logical course of action, especially if the local government is in league with, or perhaps afraid of, the terrorists. It might also be that the terrorist position is too strong for local authorities. In any of these situations, experts believe that once the decision is made to use military force, it is best to do so decisively and with enough power to reduce the chance of failure to the minimum. The number and type of military units utilized will depend on the specific operation.

However, using military force against terrorists and countries that support them has limitations as well as hazards. The most serious concern is that retaliation not escalate into wider fighting and that the action be reasonable and proportional.

Secretary of State Weinberger insisted in a speech made in November 1984 that the military should not be used in lieu of diplomacy and that, when it is used, there must be assurance of support from Congress and the

American people. The failure of the Iran rescue mission in April 1980 and the tragic bombing of the Marine headquarters in Beirut in October 1983 raised questions about the adequacy of the training and equipment of military units for use in situations against terrorists when violence must often be limited.

Concerns about the terrorist threat prompted an extensive buildup of the military's counter-terrorist organization. A special unit known as "Delta Force" at Fort Bragg, North Carolina, has been organized to perform antiterrorist operations when needed. Details about the unit are secret, but estimates are that it has about 800 assigned personnel. These include Army Special Operations Forces (SOF), a special helicopter unit from the 101st Air Assault Division, Navy Seals, and Marine reconnaissance teams. Delta Force is supported by Air Force special operations units from the 23rd Air Force at Eglin AFB in Florida.

Any decision to use military force raises several issues directly involving Congress or for congressional consideration:

(1) Is the President obligated to consult with or obtain authorization from Congress under the War Powers Act before authorizing a counterterrorist operation abroad? While not required by law, how urgent is it that the President consult with allied countries prior to taking military action? Should that consultation be limited to the European Community or should it include other nations such as Japan?

(2) Does the President have the legal authority to use troops against terrorists inside the United States? If not, should Congress consider revising laws associated with such use under title 10 of the U.S. Code or the Posse Comitatus Act (18 U.S.C. 1385)?

(3) What guidelines should the President use in deciding whether the use of armed force is necessary in a particular situation? When hostages are being held, how are the risks of using force to be weighed against the risks of waiting? Or is it more important to take action and avoid setting precedents that might encourage future kidnappings? Under what circumstances should the United States try to rescue hostages against the wishes of the government of the country in which they are being held? Should there be defensive action against the terrorists or the sponsoring country?

LEGISLATION

P.L. 99-399, H.R. 4151

Omnibus Diplomatic Security and Anti-Terrorism Act. Establishes a Bureau of Diplomatic Security in the State Department, to be headed by an Assistant Secretary of State. Establishes a Diplomatic Security Service to perform security functions, including investigatory, warrant, and arrest powers. Authorizes funds for a 5-year program to upgrade or rebuild U.S. facilities abroad for security reasons and compensation for Government employees and members of their families who are victims of terrorism. Calls for strict safeguards, including metal detectors and cargo and baggage screening leaving U.S. ports, and for international

cooperation for the maintenance of effective port security. Introduced Feb. 6, 1986; referred to Committee on Foreign Affairs. Passed House, amended (inserted text of H.R. 4418), Mar. 18, 1986. Passed Senate, amended, June 25, 1986. Signed into law (P.L. 99-399) Aug. 27, 1986.