

## We demand a reasonable Icesave agreement to avoid national bankruptcy

*UK and Dutch claims  
against Iceland:*

**€3.91bn**

*High interest rate:*

**5.55%**

*Icelandic Population  
(the size of a small  
city in Europe):*

**317,000**

*Expected obligation  
per Icelandic family:*

**€48,000**

*Obligation as a  
percentage of  
Icelandic GDP:*

**50%**

*UK and Dutch  
sovereign demands:*

**Full State  
Guarantee**

### Icesave is not a debt of Iceland

- The UK and Dutch governments are claiming reimbursement for payments of €3.9bn to Icesave depositors of the failed Landsbanki Bank.
- These payments were much greater than the EU maximum guarantee and were made to save their own banking systems. All depositors have been reimbursed.
- Iceland adhered to flawed EU banking directives, which were not designed to deal with a complete collapse of a local banking sector as experienced by Iceland.
- The UK and Netherlands demand a state guarantee of Icesave deposits, but there is no mention of a state guarantee in the EU directives.

### Forced obligations taken on with sovereign safeguards

- In the [Brussels guidelines](#), agreed upon by the EU and all parties to the dispute, Iceland agreed to cover Icesave deposits in accordance with EU banking directives (which do not specify a state guarantee of deposits).
- It was also agreed that the resolution would take into account the unprecedented situation of Iceland and enable the restoration of its economy.
- In August 2009 Iceland consented under duress to reimburse the disputed €3.9bn, but with safeguards that protected against national bankruptcy.
- These safeguards were subsequently rejected by the UK and Netherlands.

### Economic warfare by the Dutch and UK governments

- The UK used anti-terrorist laws against Iceland, a co-founder of NATO.
- Iceland has been denied clarification of the disputed Icesave claim in a court of law.
- Only half of Landsbanki's assets can be used to cover the guarantee stipulated by EU directives. The other half is commandeered by the UK and Netherlands to arbitrarily reimburse depositors beyond the EU minimum.
- Excessive interest rates of 5.55% mean that the UK and Netherlands profit from the forced reimbursement by Iceland.
- The UK and Netherlands are blocking vital IMF loans until Iceland accepts their claims.

### A grave risk of bankruptcy for Iceland

- The banking collapse made Iceland's external debt one of the highest in the world.
- The Icelandic economy is frozen, with soaring unemployment, a dangerously devalued currency and a decline in population, the first since 1889.
- Iceland's exposure is unsustainable. The Icesave obligation is equal to 50% of Icelandic GDP, equivalent to £700bn for the UK or €270bn for the Netherlands.
- Key economic variables indicate that Iceland will be unable to meet the repayments in foreign currencies stipulated by the Icesave loan agreements.

### A new solution is needed

- The assets of Landsbanki assets are valued at €6.6bn (£5.7bn or [ISK1,164bn](#)) above the €3.9bn being claimed from Iceland for the minimum deposit guarantee.
- Responsibility and costs for flawed banking regulation must be shared and Iceland should receive compensation for reputational damage due to the use of anti-terrorist law.
- Iceland must be able to restore its economy in conformity with the [Brussels guidelines](#).

# Index

<b><i>Serious flaw in the EU deposit scheme</i></b> _____	3
The EU guarantee scheme _____	3
Icelandic deposit fund was set up according to EU regulations but was very small due to fast growth _____	3
The EU guarantee scheme does not support a systemic crisis _____	3
Who was responsible for oversight of the Landsbanki Bank _____	3
<b><i>No sovereign guarantee required to set up a deposit guarantee fund</i></b> _____	4
Even though Iceland admits responsibility, it has been denied legal proceedings to clarify its obligation _____	4
<b><i>Winding up Landsbanki branches assets: imposed terms ignore EU and Icelandic law. Iceland's obligations under sovereign guarantee are dramatically increased</i></b> _____	4
EU winding up directive of credit institutions (2001/24/EC) _____	4
Icelandic Law 98/1999 _____	4
Imposed terms by the UK _____	4
Imposed terms by the Dutch _____	4
<b><i>Quotes</i></b> _____	5
Martin Wolf, Chief Economist Commentator, The FT _____	5
Sweder van Wijnbergen, Economics Professor at the University of Amsterdam _____	5
Member of the European Parliament for France _____	5
Dr. M. Elvira Méndez-Pinedo, Associate Professor of European Law, University of Iceland _____	6
<b><i>Timeline</i></b> _____	7
October 2008: the collapse of the Icelandic banks and invocation of the Anti-Terrorism act by the UK against a NATO country _____	7
November 2008: repayment to depositors without consulting Iceland _____	7
May-June 2009: initial, non-disclosable loan agreement would lead to national bankruptcy _____	8
Aug-Sep 2009: the Icelandic government approves the loan agreement to repay Icesave subject to preconditions, then rejected by the UK and the Dutch _____	8
Oct 2009 - Jan 2010: new proposed legislation was submitted, but not signed by the President. It will be sent to referendum based on a petition signed by about a quarter of the electorate _____	8
Present _____	9

# Serious flaw in the EU deposit scheme

## **The EU guarantee scheme**

[EU directive 94/19/EC](#), determines that each European state set up a guarantee scheme into which its banks must transfer a percentage of their deposits. If one bank fails, the depositors receive minimum payment of up to €20,887. The scheme's success depends on the number and size of banks paying the premiums. Large banks pose a serious threat to the viability of the scheme.

## **Icelandic depositors guarantee fund was set up according to EU regulations but was very small due to fast growth, similar to DGF's in EU Member States**

The Icelandic Depositors Guarantee Fund (DGF) was set up in accordance with EU regulations. The Icelandic rules state that it has to have 1% of the average deposits similar to EU Member States. However, the depositors' guarantee schemes as specified by the EU were not designed for an extremely fast and extensive growth of deposits as happened with the Icelandic banks. Once deposits by foreigners poured into the Icelandic banks, the Icelandic DGF simply did not grow fast enough. Thus early 2008 the DGF only held a total of €47 million.

## **The EU guarantee scheme does not support a systemic crisis**

The EU had allowed the banks to become international but kept the guarantee schemes local for each country. The Icelandic banking system crash revealed fatal flaws in the EU banking environment lying at the heart of the Icesave dispute.

*“ It was not designed to deal with a systemic crisis but with the collapse of a single bank”*

*W.J. Bos*

*Dutch Finance Minister  
Mar09*

First, there were no safeguards in the EU directive to prevent rapid growth of banks versus the size of the economy. The Icelandic banking system had become 10 times the GDP of Iceland. This is not unheard of as can be seen in Switzerland where the banking system is six times the countries GDP.

Secondly, the EU guarantee scheme was not designed to handle a complete collapse of a local banking system. This had been pointed out by the French Central bank back in 2000 but no action had been taken by the EU to prevent this flaw. The current Dutch Finance Minister has also [confirmed](#) weakness of the guarantee scheme stating: 'It was not designed to deal with a systemic crisis but with the collapse of a single bank.' This is exactly what happened in Iceland when 85% of the banking system collapsed within one week.

These two problems are the main reasons why the DGF does not have the required funds to pay the minimum guarantee and why the size of the Icesave minimum guarantee is 50% of Iceland's GDP.

## **Who was responsible for oversight of the Landsbanki Bank**

As of yet there does not exist any report on the Icelandic FSA's part in the collapse, the report is due by the end of February 2010 However, the FSA in UK and Netherlands also bear responsibility. In the end, the culpability for the DGF's inability to compensate the Icesave accounts not only lies with the Icelandic, Dutch and UK FSAs\*, but also those responsible for the defective banking regulations: the EU itself.

*“Could anyone realistically think that a handful of people in Reykjavik could effectively control the activities of a bank in the heart of the City [of London]? Moreover, it should be noted that the European directives concerning financial conglomerates seem to suggest that EU member states that allow such establishments into their territories from third countries must ensure that they are subject to the same level of control by the authorities of the country of origin as that provided for by European legislation. So, was there perhaps a failure on the part of the British authorities on this point?”*

*Martin Wolf, Chief Economist Commentator, The FT*

# No sovereign guarantee required to set up a deposit guarantee fund

**The EU banking directive ([directive 94/19/EC](#)) does not mention sovereign guarantee on the depositors' insurance schemes.**

The EU banking directive ([directive 94/19/EC](#)) does not mention sovereign guarantee on the depositors' insurance schemes. On the contrary the directive specifically states that:

*"Whereas it is not indispensable, in this Directive, to harmonize the methods of financing schemes guaranteeing deposits or credit institutions themselves, given, on the one hand, that the cost of financing such schemes must be borne, in principle, by credit institutions themselves and, on the other hand, that the financing capacity of such schemes must be in proportion to their liabilities; whereas this must not, however, jeopardize the stability of the banking system of the Member State concerned;*

*Whereas this Directive may not result in the Member States' or their competent authorities' being made liable in respect of depositors if they have ensured that one or more schemes guaranteeing deposits or credit institutions themselves and ensuring the compensation or protection of depositors under the conditions prescribed in this Directive have been introduced and officially recognized;"*

## Winding up Landsbanki branches assets: imposed terms ignore EU and Icelandic law. Iceland's obligations under sovereign guarantee are dramatically increased

**EU winding up directive of credit institutions (2001/24/EC)**

The EU directive states that in relation to winding-up proceedings, the law of the home Member State [i.e. Iceland] shall determine in particular the rules governing the distribution of the proceeds of the realisation of assets, the ranking of claims and who is to bear the costs and expenses incurred in the winding-up proceedings".

**Icelandic Law 98/1999**

Under Icelandic law, DGIF would have had first priority on the winding up of Landsbanki's branches' assets, to pay out the €3.9bn, that is to the maximum €20,887 per depositor.

**Imposed terms by the UK**

1. DGIF must pay £10,000,000 to the UK for past and future costs to compensate Landsbanki London depositors.
2. The loan due to the UK is £2.2 billion plus any 'undisbursed' depositors
3. The UK and DGIF's claims on Landsbanki London's assets rank pari-passu, that is an equal amount between the first €20,887 paid by DGIF and the amount that the UK paid above that, i.e. total payout to retail depositors and £50,000 to business depositors.

**Imposed terms by the Netherlands**

1. DGIF must pay €7,000,000 to the UK for past and future costs to compensate Landsbanki London depositors.
2. The loan due to the Netherlands is €1,329,242,850.
3. Any amounts received from Landsbanki will be divided between HM Treasury (the UK) and Netherlands pro rata to the amount of principal then outstanding under the UK Loan Agreement and Dutch Loan Agreement.

## Quotes

**Martin Wolf, Chief Economist Commentator, The FT**

Asking a people to transfer as much as 50 per cent of GDP, plus interest, via a sustained current account surplus is extraordinarily onerous. Against this, the UK government argues that it is offering a lengthy grace period and an interest rate that is close to the cost of funding for the UK Treasury. It also argues that as much as 90 per cent of the repayment it seeks could come from liquidation of Landsbanki's assets.

Yet the obvious answer to the latter point is this: **if the assets of the bank are that valuable, why not write off the debt, in return for the claims on these assets?** That would be a generous gesture. It is, more importantly, one that would do much to improve the morale of a battered and vulnerable little country. Threatening such a country with destruction, as Lord Myners has done, is simply shameful. **The UK and the Netherlands should stop this self-righteous bullying at once.**

**Do Iceland's taxpayers have a moral obligation to pay this loan? My view is: no.** The delusion that finance was the path to riches was propounded by countries that should have known far better. I cannot blame Icelanders for succumbing. I certainly do not want generations of Icelanders to bear the cost.

Yet they – and everybody else – must learn the really big lesson here. The combination of cross-border banking with generous guarantees to creditors is unsustainable. Taxpayers cannot be expected to write open-ended insurance on the foreign activities of their banks. It is bad enough to have to do so at home.

**Sweder van Wijnbergen, Economics Professor at the University of Amsterdam**

**Iceland needs international debt management.** But how must we now proceed? Iceland currently has an external debt that amounts to between 300 and 900 percent of its gross domestic product! The third world debt crisis of the 1980s taught us how to deal with over-indebted countries. The Brady Plan that was applied involved discounting debts of countries like Mexico, whose commitments then amounted to 60 percent of GDP, and was therefore regarded as unable to pay. Nicaragua had ten times its GDP in debt. It has never repaid that. A debt of three or four times GDP cannot be repaid, and therefore will not be repaid, whether the president commits to repayment or not.

The Mexico experience demonstrates how wrong all these predictions of Iceland becoming a pariah are. After Mexico had negotiated a 40% cut in its debt, capital flowed into the country. That happened in all countries in the Brady Plan, amounting to about 600 billion in the first ten years. It's logical. Payment of gigantic debts requires extremely high taxation, which chases away investors and leads to zero growth for decades. Iceland would be cast into a vicious circle: high debt, high taxation, low growth, low payment capacity and thus even more debt. This is called debt overhang.

**Demanding full repayment in such circumstances leads to such turmoil that creditors end up with less than if they had been more modest in their demands. Moreover, creditors should not act in isolation. The international community should not permit Bos and Brown to insist on getting paid before other creditors.**

**Bos: quit the tough talk.** Iceland has to sell the banks that were nationalised so as to clarify its overall indebtedness. It has to be established how much debt should be discounted to allow new growth so the country can repay the rest of its obligations. Stringent fiscal measures will have to be undertaken to convince creditors problems will not re-emerge. With such a restructuring and adjustment process, Bos will get more back

**Eva Joly Member of the European Parliament for France**

The European Commission has clearly sided with the UK, as its President announced in November that there would be no European aid until the Icesave case had been resolved. It is true that Mr Barroso – too busy with his own campaign and terrified of upsetting his main source of support, London – is, as is often the case, in over his head. Even the Scandinavian countries, which heralded international solidarity, are conspicuous by their lack of reaction to the **blackmailing of Iceland** – which certainly puts the generosity of the loans they have promised into perspective.

**Mr Brown is wrong when he says that he and his government have no responsibility in the matter.** Firstly, Mr Brown has a moral responsibility; having been one of the main proponents of this model which we can now see has gone up the spout. But he also has a responsibility in the sense that he cannot really hide behind the legal status of Icesave – which made it formally dependent on the Icelandic banking authorities

– and say that the UK had neither the means nor the legitimacy to supervise its activities. Could anyone realistically think that a handful of people in Reykjavik could effectively control the activities of a bank in the heart of the City? Moreover, it should be noted that the European directives concerning financial conglomerates seem to suggest that EU member states that allow such establishments into their territories from third countries must ensure that they are subject to the same level of control by the authorities of the country of origin as that provided for by European legislation. So, was there perhaps a failure on the part of the British authorities on this point, which would not be particularly surprising considering the ‘performance’ of other English banks (which were in no way related to Iceland) during the financial crisis? If so, Mr Brown’s activism in relation to this small country might be motivated by a wish to appear powerful in the eyes of his electorate and taxpayers, whose own losses cannot be played down. Of course, the Icelandic institutions have a great deal of responsibility in this matter. But does that necessarily mean that the – also considerable – responsibility of the British authorities should be overlooked, dumping it all on the Icelandic people alone?

The Netherlands and the UK are being arrogant. They are asking for 2.7 and 1.3 billion euros respectively at 5.5 percent interest. But Iceland’s public debt amounts to 300 percent of GDP. They will never be able to pay back the whole amount. According to a European directive, EU countries should regulate multinationals from outside the EU operating on their territory just as strictly as home-grown enterprises. If you [the Netherlands and the UK] do not meet Iceland halfway, only fishermen will remain on the island and you still won’t have your money back. The brain drain has begun: 8,000 highly educated people have already left the island and more will follow. It is not our interest to impoverish Iceland. We should not bully them, but negotiate, in a more grown up and proper fashion than we are currently doing.

***Dr. M. Elvira Méndez-Pinedo, Associate Professor of European Law, University of Iceland***

Icelanders’ request to submit the new law on Icesave to a national reference is simply a request that the EU, EU Member States, Iceland, and even the IMF, comply with the new Europe that has promised to its citizens. This is a request to reconsider the Icesave agreements in the light of European fundamental rights which are: democracy, rule of law, economic independence, sovereignty, solidarity between countries and future sustainability of the Icelandic Nation. European integration is for the benefit of us, common and ordinary people not only multinationals and international creditors. **EU, are you listening to European citizens?**

# Timeline

## **October 2008: the collapse of the Icelandic banks and invocation of the Anti-Terrorism act by the UK against a NATO country**

The three largest Icelandic banks, accounting for 85% of the Icelandic banking system, were highly leveraged, as were many around the world. There was a global withdrawal of credit in the financial system immediately after the Lehman Brothers' bankruptcy.

Until then, Landsbanki Bank had a very successful online deposit programme 'Icesave' in the Netherlands and the UK as it paid the highest interest rates to most likely diversify its balance sheet. However, due to its major liquidity issues, the Landsbanki bank was put into receivership by the Icelandic government on October 7<sup>th</sup> to protect the financial infrastructure.

On October 8<sup>th</sup>, the UK government invoked the Anti-terrorism, Crime and Security Act of 2001 to freeze the UK assets of Landsbanki, the Central Bank of Iceland and the Government of Iceland. The aim of this draconian and unprecedented action was apparently to protect the interests of British Icesave depositors. The Dutch government then took steps to freeze the assets of Landsbanki in the Netherlands. A few days later, all three of the main Icelandic banks had collapsed.

- *When the Icesave issue came up last October the Icelandic foreign minister said that Iceland had to take on the Icesave responsibility as the EU felt that there was a real risk of bank run in Europe. This was confirmed by the Finnish Finance Minister on September 9<sup>th</sup> this year when he admitted in an interview that European banking was near collapse last October. He says: "we were a couple of days away from a complete catastrophe, which would have been ten times worse than the current situation." He described October 8<sup>th</sup> as the worst day, when central banks worldwide simultaneously decided to reduce interest rates by half a point.*
- *Landsbanki and Glitnir were taken over October 7<sup>th</sup> exactly at the time when the fear in the EU was its greatest. Iceland revealed a flaw in the EU depositors' insurance scheme and showed that it did not always manage to cover deposits. For this to be revealed at the same time when the EU believed its banking system was close to collapsing was unthinkable for the EU. Even the doubt that the scheme would not hold was unacceptable and Iceland's request to resolve this issue before an international court was declined.*
- *Due to the gravity of the situation, Iceland's interests were simply neglectable and clear that Iceland had to take on the responsibility no matter what. Iceland was even threatened with embargo. In the end the Icelandic government gave in and accepted the Icesave commitment.*

## **November 2008: repayment to depositors without consulting Iceland**

The Dutch and UK governments compensated their domestic Icesave depositors, without consulting the Icelandic government, using their own depositors' guarantee schemes. They thereby placed the burden of the depositors' guarantee on their taxpayers instead of the financial institutions as was foreseen by the EU rules and by that changed the environment

The Dutch, UK and Icelandic governments as well as the EU agreed on the Brussels guidelines. The guidelines state that for taking on the obligation of repaying the UK and Dutch governments which would in turn.

*"..take into account the unprecedented difficult situation of Iceland and therefore the necessity of finding arrangements that allow Iceland to restore its financial system and its economy."*

This was to reflect shared international responsibility. The Brussels guidelines also stated that:

*"the EU [...] will continue to participate in finding arrangements that will allow Iceland to restore its financial system and economy."*

The current Icesave agreement has in no way been made to reflect the Brussels guidelines and seriously threatens the Icelandic economy to the point of national bankruptcy.

**May-June 2009: initial, non-disclosable loan agreement would lead to national bankruptcy**

The Dutch and UK governments entered into negotiation with the Icelandic government, claiming:

- a stake in the bankruptcy estate of Landsbanki bank,
- a full sovereign guarantee of the Icelandic Depositors and Investors Guarantee Fund
- full repayment of the €3.91 billion (i.e. up to a maximum of €20,887 for each Icesave depositor): £2.35 billion and €1.33 billion for the UK and Dutch governments, respectively, and
- that Iceland bears all the foreign exchange risk

The Icelandic negotiators were outnumbered and outgunned in all respects. Two agreements were signed on June 5<sup>th</sup> 2009 accepting repayment over 15 years (first 7 years no repayment) at 5.55% interest with terminations clauses (including an inability repay any other debt), restrictive waivers of defence and sovereign immunity, and waivers of the right for legal appeal against the governments.

As well, they would only receive under 53% of all assets recovered from the Landsbanki estate. According to the bankruptcy law in Iceland (and most other countries), each deposit should yield only a single claim on the estate of the bank. If this were the case, the vast majority of the Landsbanki assets would offset the first €20,887 of each deposit.

Unacceptably, one of the conditions was strict confidentiality of the agreements and documents – even the representatives of the Iceland Parliament were not permitted to see them. After extensive lobbying, the agreements were finally made available online. Shockingly, all projections based on realistic assumptions about the recovery of the assets from Landsbanki, economic growth, etc. showed without doubt that Iceland would be unable to meet the repayments as reported by the University of Iceland's Institute of Economics on August 3<sup>rd</sup> 2009 to the Parliament.

**Aug-Sep 2009: the Icelandic government approves the loan agreement to repay Icesave subject to preconditions, then rejected by the UK and the Netherlands**

Although representatives of the Icelandic government had inexplicably signed the Icesave agreements on June 5<sup>th</sup> 2009, they could only come into force by means of legislation passed in the Parliament to authorize the state's guarantee of repayment of the loans.

After enormous pressure from certain Parliament representatives, the Minister of Health and organizations such as InDefence, it became clear even to most members of the government that the Icelandic Parliament could not pass legislation that jeopardized the future of the nation. Considerable effort was therefore put into the formulation of preconditions for the state guarantee that could be incorporated into the legislation. The aim of these preconditions was to redress the most perilous clauses of the Icesave agreements, such that Iceland retained crucial legal rights, would only meet repayments of the loans if able to do so and that normal procedures would apply to the handling of claims on the bankruptcy estate of Landsbanki.

On August 28<sup>th</sup>, this was approved by the Parliament: act number 96/2009. The President approved the act on September 2<sup>nd</sup>, 2009, however stating that the solution would have to 'take account of the fair rights of the nation, Iceland's interests in the years ahead and a shared international responsibility'.

Subsequently, the UK and Dutch governments outright refused the preconditions and demanded that the initial agreement be complied with.

**Oct 2009 - Jan 2010: new proposed legislation was submitted, but not signed by the President. It will be sent to referendum based on a petition signed by about a quarter of the electorate**

After a second round of negotiations with the UK and Dutch authorities was concluded, a new bill on the state guarantee on the Icesave loans was submitted by the government at the Icelandic Parliament on October 19<sup>th</sup>. The bill included amendments to the Icelandic Icesave state guarantee legislation, passed by Parliament in August. The finance ministers of Iceland, the UK and the Netherlands were obligated to maximize the value of Landsbanki's assets.

The Icelandic Parliament passed the bill by a thin majority on December 30<sup>th</sup>, submitted to the President on December 31<sup>st</sup> for his signature.

On January 5<sup>th</sup>, 2010, as per Article 26 of the Icelandic constitution, the President declared that he would refer this bill to the people via a referendum after having received a petition from InDefence signed by about a quarter of the electorate.

Should the referendum be negative, the original act number 96/2009 will be in force.

## Present

Iceland is caught in a tidal wave, fighting a lethal combination of crises: a failed banking system; soaring national debt; a valueless currency; and an economy in tatters. The collapse of the Icelandic stock exchange was even greater than that of the Dow Jones in the USA during the Great Depression in 1929-32. This has led to huge losses in the assets of Icelanders. The local currency devalued drastically, causing an unsustainable rise in debt for many Icelandic companies and families, many of whom owe money in foreign currencies. Inflation and unemployment have skyrocketed. The treasury's fiscal deficit is close to 30% of its revenues and it has taken on a huge amount of debt due to the collapse.

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For further information, contact

### **In Defence of Iceland (InDefence)**

[press@indefence.is](mailto:press@indefence.is)

<http://indefence.is>

Eiríkur S. Svavarsson  
+354 897 8087  
[eirikur@indefence.is](mailto:eirikur@indefence.is)

Magnús Árni Skúlason  
+354 822 0401  
[magnus@indefence.is](mailto:magnus@indefence.is)

Jóhannes Þ. Skúlason  
+354 664 8334  
[johannes@indefence.is](mailto:johannes@indefence.is)

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*InDefence is a grassroots organisation that was founded in October 2008. It organized a petition to protest the use of the Anti-Terrorism Act by the UK Government against Iceland. This is the largest petition in Icelandic history and the group handed in 83,300 signatures (quarter of the population) to the British Parliament in March 2009. In November 2009, InDefence launched its second petition urging the President of Iceland to put the Icesave law to a referendum. On January 10<sup>th</sup> 2010, InDefence handed in 56,089 signatures (a quarter of the Icelandic electorate) to the President.*