

September 1993

# DRUG CONTROL

## DOD Operated Aerostat Ship Although Conferees Denied Funds



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**National Security and  
International Affairs Division**

B-252952

September 10, 1993

The Honorable Daniel K. Inouye  
Chairman, Subcommittee on Defense  
Committee on Appropriations  
United States Senate

The Honorable John P. Murtha  
Chairman, Subcommittee on Defense  
Committee on Appropriations  
House of Representatives

Between 1989 and 1993, the U.S. Army operated three Small Aerostat Surveillance System (SASS) ships to detect and monitor ships and aircraft suspected of drug smuggling. The U.S. Coast Guard conducted similar operations between 1987 and 1991, using Sea-Based Aerostat (SBA) ships. In fiscal year 1992, the Department of Defense (DOD) Appropriations conferees directed the transfer of the Coast Guard's five SBA ships to the Department of Defense's (DOD) operational control to support Coast Guard operations. While the conferees approved funding for the operation of the five SBA ships, they approved funding for only two of the SASS ships.

The fiscal year 1993 DOD Appropriations Conference Report (H. Rpt. 102-1015) directed us to report on (1) DOD's efforts to combine SBA and SASS missions in the Caribbean and (2) DOD's use of funds appropriated in fiscal year 1992 for the operations and maintenance of SBA ships for purposes not authorized by Congress.

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**Results in Brief**

As intended by the 1992 conferees, DOD took operational control of the five Coast Guard SBA ships in December 1991 and combined SBA and SASS counterdrug missions in the Caribbean in the following month. Although the conferees funded the operation of seven ships, DOD decided to operate only four ships: three SASS ships and one SBA ship in support of the Coast Guard mission. It placed three other SBA ships into storage and used one SBA ship for an SBA/SASS comparison test of operational capabilities.

In implementing this decision, DOD spent about \$4.5 million of its fiscal year 1992 funds to operate the third SASS ship (called SASS III). DOD took this action even though the fiscal year 1992 appropriations conferees declined to fund the third ship, and without processing the funding as a

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reprogramming. By doing so, DOD moved funds provided for specifically requested projects to a project for which funds were specifically denied.

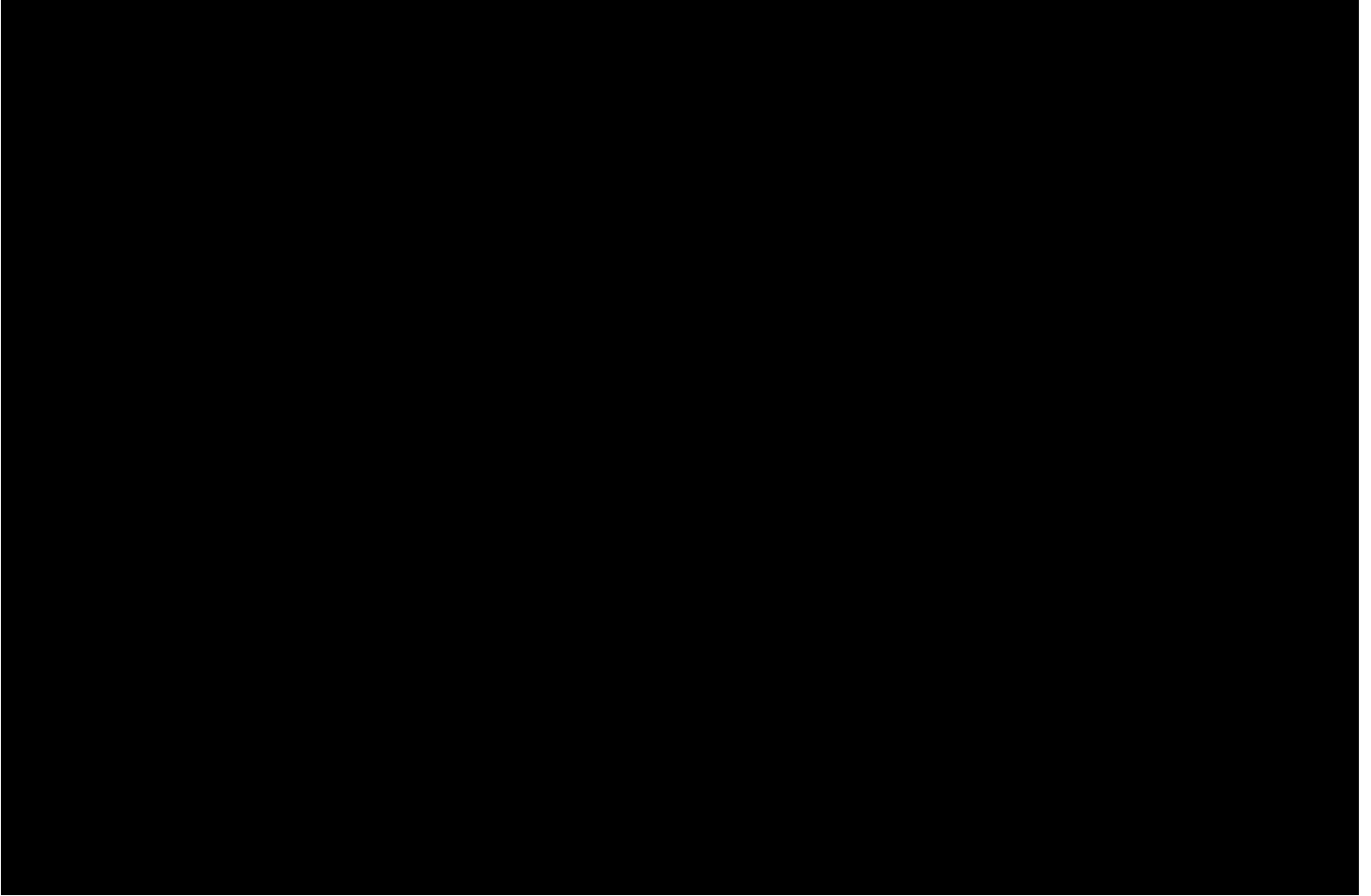
In addition, by failing to properly record this expenditure, DOD officials could not show us which fiscal year 1992 account was used to fund SASS III operations from January through September 1992 or how DOD realized savings it stated were achieved within the counterdrug program.

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## Background

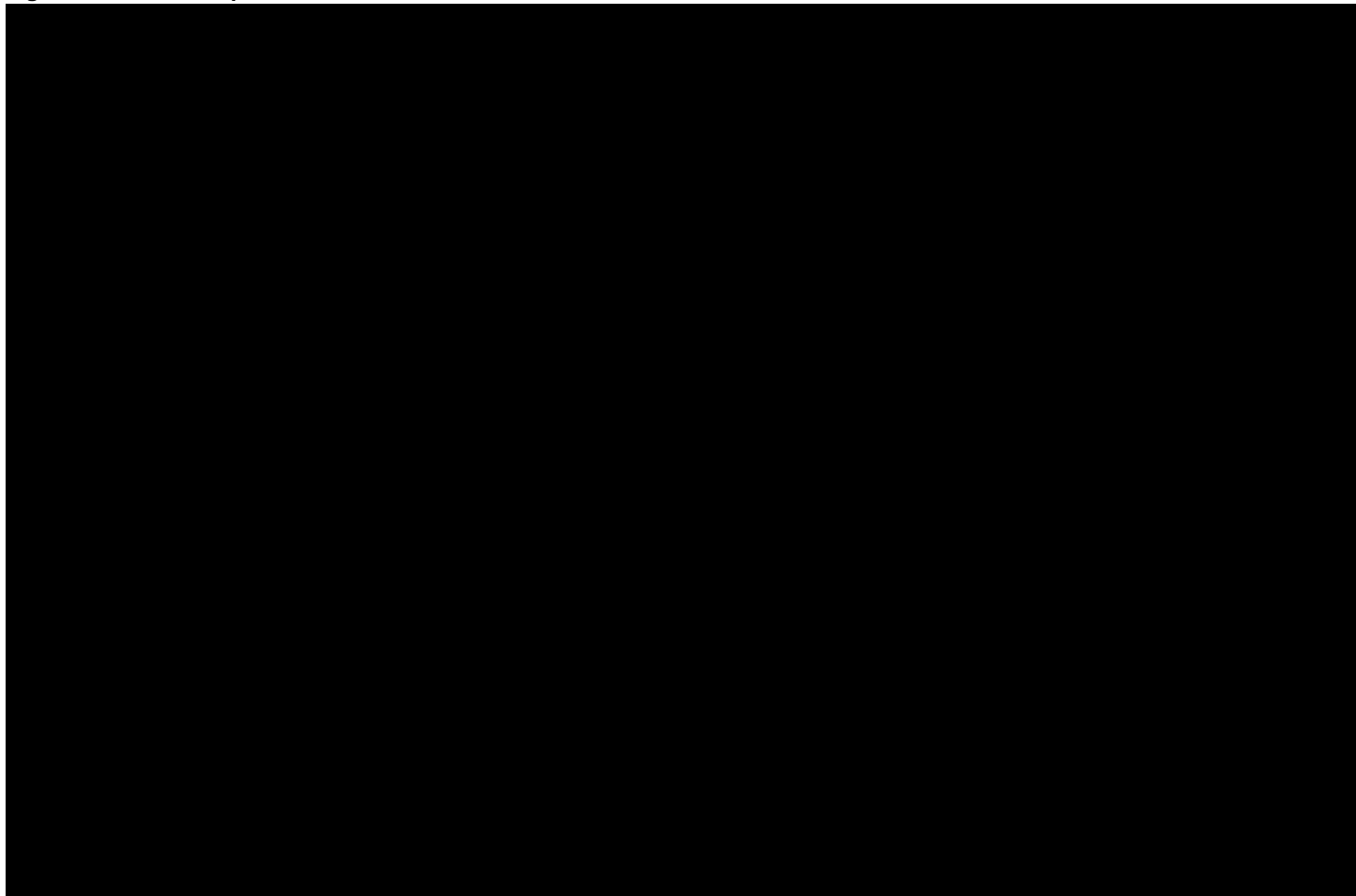
The SBA and SASS ships are small, 200-foot, leased commercial vessels with tethered blimps called aerostats (see fig. 1 and fig. 2). Radars mounted on the aerostats are capable of detecting and monitoring ships and aircraft suspected of drug smuggling. SASS ships supported the Army's military counterinsurgency mission in the Caribbean and Central America until 1989, when DOD assigned the ships to the counterdrug mission. Between 1987 and 1991, the Coast Guard deployed SBA ships to intercept illegal maritime drug and immigration traffic.

Figure 1: An SBA Ship



Source: U.S. Army.

Figure 2: A SASS Ship



Source: U.S. Army.

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## DOD Combined SBA and SASS Missions

DOD combined the SBA and SASS counterdrug missions in January 1992, 1 month after it took operational control of the five Coast Guard SBA ships. The conferees intended that DOD operate the SBA ships to support the Coast Guard's counterdrug mission. Although the conferees funded the operation of seven ships, DOD decided to reduce the total number to five to meet its requirement in the Caribbean. The Army believed the SASS ships to be more capable than the SBA ships and therefore decided to operate one SBA and three SASS ships in a counterdrug role, use one SBA ship for an SBA/SASS comparison test of operational capabilities, and place three SBA ships into storage.

After comparing both the costs and operational effectiveness of the SBA and SASS ships, the Army concluded in the summer of 1992 that the SBA ships were a better value than the SASS ships and opted to retire the three SASS ships instead. By the spring of 1993, the Army had terminated the operation of all three SASS ships. The Army currently operates all five SBA ships in the Caribbean to support the counterdrug mission. The fifth SBA ship was deployed on July 9, 1993. In order to provide the equipment to allow military command and control, the Army removed military radios from SASS ships and installed them on SBA ships.

### DOD Continued SASS III Operations Even Though Conferees Did Not Fund SASS III

DOD contracted to operate the third SASS ship—SASS III—even though the congressional conferees, on the fiscal year 1992 defense appropriations, had provided no funds for the project. We believe that DOD's actions committed it to a reprogramming; however, DOD did not process the funding transaction as a reprogramming.

### Army Awarded a Contract, Although Funds Were Not Approved

DOD's fiscal year 1992 appropriation<sup>1</sup> included a total of \$38.4 million to operate the SBA and SASS ships: \$19.4 million for the SBA ships and \$19 million for SASS I and SASS II. DOD requested \$16.2 million to operate SASS III and a fourth ship, SASS IV, but the conferees provided no funds for this purpose. Table 1 shows the congressionally approved operation and maintenance funding levels and project codes for the SASS and SBA ships.

**Table 1: Fiscal Year 1992 Funds Approved for the Operations and Maintenance of SASS and SBA Ships**

Dollars in millions		
Project	Code	Amount approved
SASS I	2312	\$10.9
SASS II	2306	8.1
SASS III/IV	2311	0.0 <sup>a</sup>
SBA	None	19.4
<b>Total</b>		<b>\$38.4<sup>b</sup></b>

Note: Fiscal year 1992 DOD Appropriations Conference Report (H. Rpt. 102-328), November 18, 1991.

<sup>a</sup>DOD requested \$16.2 million for SASS III/IV, but the conferees did not include funds for this project.

<sup>b</sup>According to the SBA Product Manager, \$2.3 million was reprogrammed on September 12, 1992, from the "Drug Interdiction and Counterdrug Activities - Defense" account to cover unanticipated costs to conduct SBA/SASS comparison tests and install SASS military radios on SBA ships. This brought the fiscal year 1992 total expenditure for SBA and SASS to \$40.7 million.

<sup>1</sup>Public Law 102-172, November 26, 1991.

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Table 1 shows clearly that no funds were approved for the third SASS ship—SASS III. Notwithstanding the conferees' denial of funds for SASS III, the Army awarded a contract that included operating funds for SASS III. The contract was awarded on December 31, 1991—1 month after the conference report was issued (Nov. 18) and the appropriations act became law (Nov. 26). DOD spent about \$4.5 million to operate SASS III from January through September 1992.

Although Army officials confirmed that the contract was signed after the denial of SASS III funding, officials from the Office of the Secretary of Defense told us they were not aware of the December 1991 contract<sup>2</sup> and that contract execution is the responsibility of Army program officials.

The Chairmen of the Subcommittees on Defense, Senate and House Appropriations Committees, in a joint letter dated March 18, 1992, to the Secretary of Defense, explained their position regarding the funding of SASS III. (See app. I.) The Chairmen stated that because the conferees had denied funding for SASS III and IV for fiscal year 1992, no funds could be transferred to these projects during the fiscal year and that DOD's failure to operate the SBA ships (in support of the Coast Guard counterdrug mission) was a "clear violation" of the conferees' intent. The Chairmen specifically objected to "standing down" the Coast Guard ships. In addition, according to the Coast Guard, DOD's deactivation of SBAS was unresponsive to its counterdrug requirements.

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## DOD Did Not Follow Reprogramming Regulations

DOD regulations define reprogramming actions as changes in the application of financial resources from the purpose originally contemplated and budgeted for, testified to, and described to Congress in budget requests. The regulations set forth specific procedures that must be followed when funds are reprogrammed, including seeking approval from House and Senate Armed Services and Appropriations Committees in some circumstances and notifying the Committees in others.<sup>3</sup>

DOD had requested specific funding from Congress for SASS I, SASS II, SASS III/IV, and the SBA ships. The appropriations conferees responded to DOD's request in a similarly specific format, providing funds for all but SASS III/IV, for a total of \$38.4 million. DOD then placed three SBAS in storage, used one

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<sup>2</sup>The Army operated SASS I, II, and III from October through December 1991 by extending an existing fiscal year 1991 contract. This contract expired on December 31, 1991.

<sup>3</sup>DOD Directive 7250.5, "Reprogramming of Appropriated Funds," Jan. 9, 1980, and DOD Instruction 7250.10, "Implementation of Reprogramming of Appropriated Funds," Jan. 10, 1980.



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for operational testing, operated the remaining SBA, and continued to operate SASS III, although no funds were approved.

The Army's obligation of funds in the December 31, 1991, contract award to continue operation of SASS III from January through September 1992 committed the Army to a reprogramming, since the conferees had specifically denied funds for SASS III. Given the conferees' action and DOD's knowledge of their interest in the SBA/SASS mission, DOD should have processed the funding of SASS III as a reprogramming action.

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## DOD Financial Controls Not Adhered to

The Army project office obligated funds and signed a SASS contract (including SASS III) without a valid Funding Authorization Document. Army officials told us that they contracted for SASS III based on verbal authorization from headquarters Army officials. However, under DOD and Army regulations, funds cannot be obligated or contracts entered into without a Funding Authorization Document.<sup>4</sup>

Although DOD officials subsequently provided us with two Funding Authorization Documents, neither document supported the contract award. One document was issued in March 1992, 3 months after the contract was awarded, and although it addressed counterdrug projects, it did not specifically include the operation of SASS III. The other document, issued in early December 1991, addressed SASS III operations prior to December 31, 1991. The Army extended a contract on October 1, 1991, under fiscal year 1992 Continuing Resolution authority<sup>5</sup> for SASS operations for the first quarter of the fiscal year.

Because DOD did not properly document the source of funds used to operate SASS III from January through September 1992, it could not show whether the funds came from the fiscal year 1992 "Drug Interdiction and Counterdrug Activities—Defense" or some other defense account.

Although DOD stated that it funded SASS III operations from savings in other areas, without the proper documentation, the source and amount of such savings cannot be determined.

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<sup>4</sup>DOD Accounting Manual, 7220.9-M, chapter 25, October 1983 (Change 9, June 6, 1988); Army Regulation 37-1, Army Accounting and Fund Control, chapter 6, April 30, 1991.

<sup>5</sup>Public Law 102-109, September 30, 1991.

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## Agency Comments and Our Evaluation

DOD disagreed with our report, stating that it did not violate the intent of Congress regarding the operation of SASS III during fiscal year 1992. (See app. II.) DOD believed that while Congress did not fund SASS III operations for fiscal year 1992, it did so for budgetary reasons rather than a desire to prohibit SASS III operations. Consequently, DOD believed that because it funded SASS III operations from savings in other parts of the program, it did not contravene the intent of Congress.

In our opinion, DOD's decision to store three SBAs and to fund SASS III was a significant departure from the fiscal year 1992 conference report. Under these circumstances, we think DOD at a minimum should have sought clarification from Congress on this matter. In fact, while DOD may have believed that funds for SASS III were denied strictly for budgetary reasons, it concedes that the conferees' denial of funds could reasonably have been viewed as a denial of SASS III operations. Moreover, the March 18, 1992, letter sent to the Secretary of Defense by the Chairmen of the Subcommittees on Defense of the Senate and House Appropriations Committees clarified their intent that SASS III was not to be operated during fiscal year 1992.

DOD also stated that its reprogramming regulations were not applicable to SASS III because its operations were funded through SBA savings within the same program element, thus representing a reprioritization of funds rather than a reprogramming. However, reprioritization generally refers to funding changes within program elements that are often necessitated by, for example, delays in contract performance or increases due to changed priorities. These changes are usually considered to be minor and not controversial. Because the conferees specifically denied fiscal year 1992 funding for SASS III and because the Chairmen expressly stated in March 1992 that no funds were to be transferred to SASS III during the fiscal year, we believe the SASS III funding change could not be viewed as minor or noncontroversial. Further, absent funding documentation, DOD has not been able to show that the \$4.5 million transferred to SASS III came from savings within the program element. In our view, terming its action a reprioritization instead of a reprogramming does not alter the fact that DOD moved funds provided for specifically requested projects to a project for which funds were specifically denied.

DOD also suggested that Congress endorsed suspension of reprogramming procedures to the counterdrug mission based on a statement in the conference report that some flexibility is needed to transfer funds between appropriations and that "the Committees must be able to track these

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transfers without going through the reprogramming process.” DOD said that the report thus “clearly indicates that regular reprogramming procedures were not applicable to the counterdrug program for FY 1992.”

The conference report explicitly states that “Formal reprogramming procedures will need to be followed for . . . any adjustments to Congressional interest items.” In fact, DOD applied reprogramming procedures to another counterdrug funding transfer between the same two accounts. DOD formally reprogrammed \$2.3 million from the Drug Interdiction and Counterdrug Activities - Defense account to the Operations and Maintenance, Army, account to conduct SBA/SASS tests. Thus, DOD’s view that regular reprogramming procedures were not applicable to the \$4.5 million SASS III transaction is inconsistent with its reprogramming of the \$2.3 million.

DOD also said that it kept congressional oversight committees thoroughly and continually informed in a timely manner about its management decisions regarding SASS III operations in fiscal year 1992. However, when we asked DOD officials for documentation to support this statement, they referred to notes indicating contact with appropriations committees shortly before counterdrug oversight hearings in March 1992, 3 months after the conference report was issued. DOD officials agreed that the notes did not show or in any way suggest the Committees’ approval to continue SASS III operations.

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## Scope and Methodology

We met with and received documents from the U.S. Army Product Manager, Ocean-Based Aerostats. We also met with officials and reviewed documents from the Office of the Secretary of Defense, the Joint Staff, the U.S. Commander in Chief Atlantic and its Joint Task Force 4, and the U.S. Coast Guard. We analyzed these documents, compared available budget and financial data, and reviewed pertinent legislation.

We conducted our review from December 1992 to June 1993 in accordance with generally accepted government auditing standards.

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We are sending copies of this report to the Chairmen, Senate and House Committees on Appropriations; the Secretaries of Defense and the Army; the Commandant, U.S. Coast Guard; and the Director, Office of Management and Budget. We will also make copies available to others on request.

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Please contact me at (202) 512-3504 if you or your staff have any questions concerning this report. Major contributors to this report were Gary K. Weeter, Assistant Director; Elizabeth G. Mead, Evaluator-in-Charge; and Richard B. Kelley, Evaluator.

A handwritten signature in black ink that reads "Richard Davis". The signature is written in a cursive style with a prominent underline under the word "Richard".

Richard Davis  
Director, National  
Security Analysis

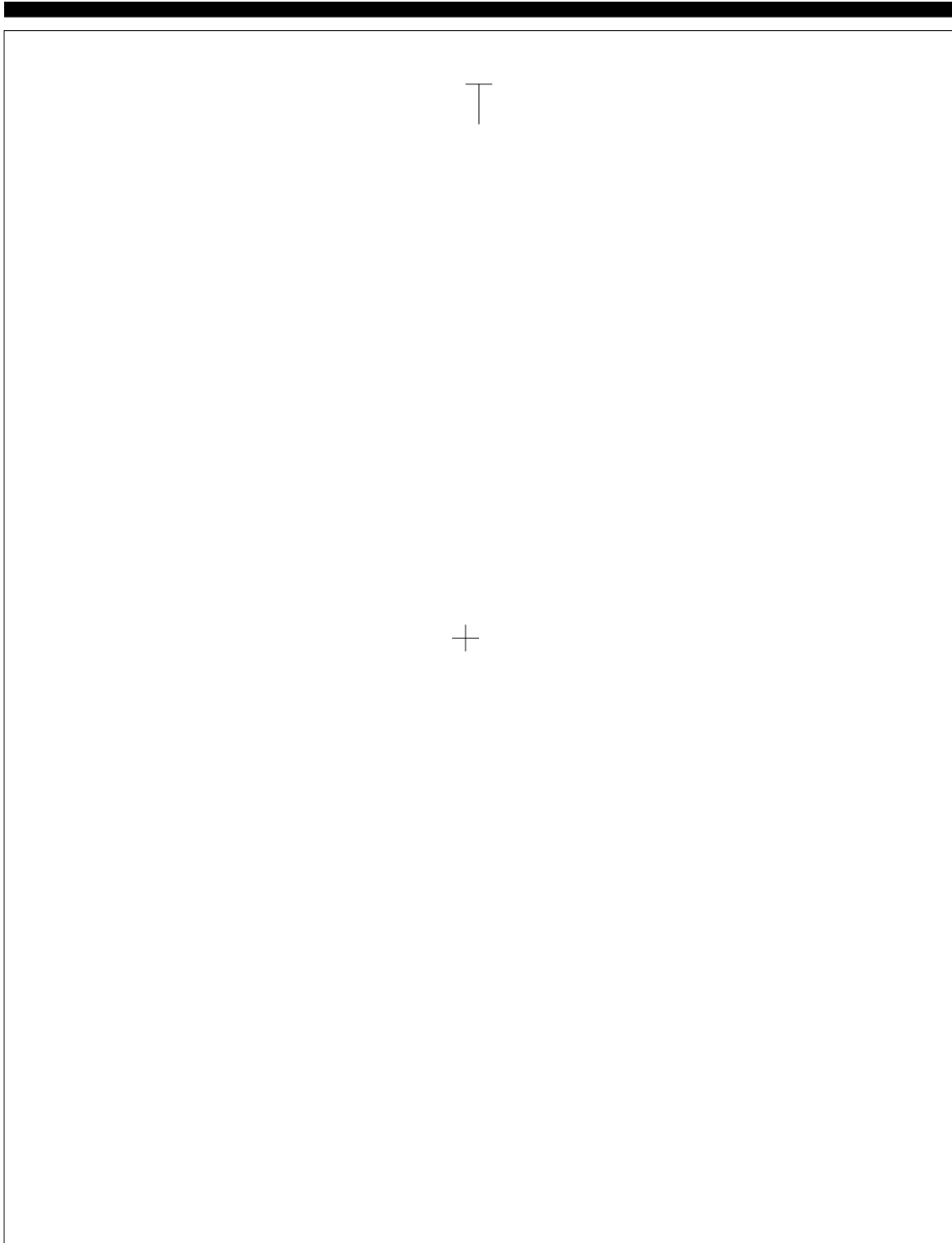
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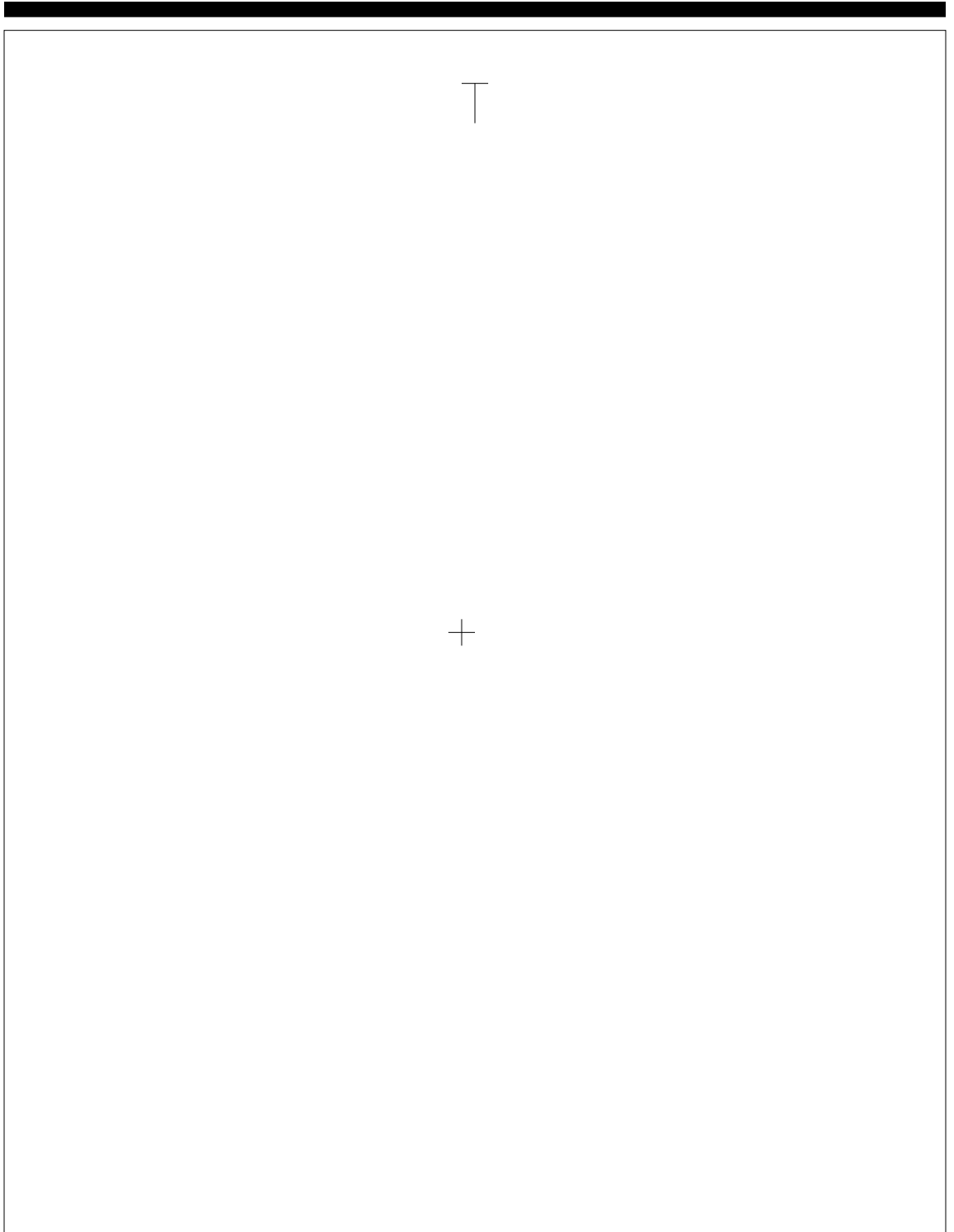
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# Letter From Defense Appropriations Subcommittee Chairmen on Aerostat Ship Operations

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# Comments From the Department of Defense



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**Appendix II**  
**Comments From the Department of Defense**

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